CLASS B

App. F. IX—4

Previous References.

1957.
(Forests)

File No. AFD 2-40
Serial Nos. DST 57

Later References.

Agriculture & Forest Department.

THE MYSORE GOVERNMENT SECRETARIAT

Serial Nos.

Part B for

SUBJECT

Encroachment of sandalwood in S. No. 215 of Galgali. Distt. Bijapur

For 26/11/54

26/11/54

WR 59203—SPB—2,00,000—1-6-61

PER/NOT FOR NOTE BOOK
UNDER SECRETARY

Under Secretary to Govt.

ಎಸ್. ನಾರಾಯಣಸ್ವಾಮಿ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಅರಣ್ಯ, ಪರಿಸರ ಮತ್ತು ಜೀವವೈವಿಧ್ಯ ಇಲಾಖೆ

AFD240 DIST 4633

1953.55 File No. FLD 1453

Agrc & Forests DEPARTMENT

LC BRANCH

Subject:— Forest land at Galgali.

Bilgi-Peta - dist. Bijapur.

Resumption of - by Govt.

Encroachment of Sandal wood plots in F.S. No 215 of Galgali in Bijapur Dt

AFD240 DIST

File No. FLD 1453 LC/30305

Std. Sectt. Slip. 24 A

[G.R., G.D., No. 2408, dated 22-6-22.]

Std. Sectt. 78 a.

Correspondence

DOCKET SHEET

Subject :— Forest land at Galgali, Bilgi Peta, dist. Bijapur

File No. FLD 1453/70305

A&F **DEPT.**

E **BRANCH.**

References :—

Date.	To whom sent.	Notes and instructions.
21/7/55	CDE x file FLD 1453	Pl issue ltr to L.D. & return on 10/8
6.9.55	R (with Dumbir file) CDE U-ACM.	Pl issue memo to A-F-D.
10/9		Pl issue letter and L/proceedings & return with ~~4~~ spp
14/9	I.H. Orgal with file FLD 1483	Pl issue to Revenue 1/10
30/12	"	Pl issue C.C. as per 21/C & return
5/1	"	Pl await will 25/1
6/4	SAP	Pl expedite CC notes
7/4	"	Pl issue copies and submit
8/4		15/5

Date.	To whom sent.	Note and instructions.
26-4-57	Rg	PI fixed for 27/5/58
8/6/58	[illegible]	issue notice to L.D returnable on 8/7/58 with case papers + file no PLD 1458E

1004—5,00,000—9-52—K2*
G.R., G.D., No. 2408, dated 22-6-22.]

Std. Sectt. 78 e.

5

Correspondence

DOCKET SHEET

70305

Subject :— Resumption of lands at Talgalli Taluka Dist. Bijapur

Spl. Civil Applns. in the matter

File No. FLD 1453

Aff DEPT.

E J BRANCH.

References :—

(1) FLD 1453

(2) 6057/39 I

(3) FLD 1453/14415

Date.	To whom sent.	Notes and instructions.
29.12.54	ADC	Pl. await Affl 10.1.55
11/1	"	Pl and till 20.1.55
27/1	"	Pl issue no and remind on 20/2/55.
3.2.55	"	most immediate Pl. issue telegram and letter reminds. at once and return with the sp. report 5.35 pm 11-0 Am 4/2/55
9.2.	"	Pl. await Affl 1.3.55.
1/3/55	V. Urgent "	Pl. issue endt- and return with a clear d.c
8/3	"	Pl. await Affl 15/3/55. Pl
10.3.55	S.D.C.	Immediate Pl. issue n.o.r. to L.D. with F.P. of the case and remind on 1.4.55 Sharp
4.4.55	S.D.C.	V. urgt Pl. issue letter reminds. & return with a copy.

Date.	To whom sent.	Notes and instructions.
11.4.	S.D.C.	Pl. remind on 11.5.55. V. urgent. along with 2 files
2/6/55	S.D.C.	Pl issue L.O. to F.D. & remind on 15.6.55.
6/7	ASDC	Pl. issue letter sending rehn with 3 spare copies

f.1/c f.3/c

Sl Nos 70305 and 71525 2- Submitted wst. Qs. d. 29.9.54 and the Ld. A's opinion d. 14.9.54 underlying it.

2. The lessees of Js. No. 215 of Galpali have filed a Spl. Civil applin. in the High Court, which has granted an interim injunction (f.2/c). The Collr. has already approached the Govt. Pleader to move the H.C. for Cancellation of the injunction. The necy. Govt. sanction to this action will presumably have to be communicated to the Govt. Pleader by the L.D. That Deptt. may see for immediate necy. action. The Govt. Pleader may be asked to urge, inter alia, the points at 'A', 'B' and 'C' on f.4/c.

3. It seems no suit as such has been filed nor any notice of intended suit served on Govt. As necy. opposing the Spl. Civil Applin. the L.D. may pl. issue suitable instructions to the Govt. Pleader.

4. In view of 'X' f. 4/c the pp. may be marked direct to Secy. L.D.

20/xi

20.11.54

Secy. 21/11

Secy. L.D.

5

Govt. Pleader, High Court, has been instructed to appear and file an affidavit of the Collr. after obtaining a report from him. He has also been instructed to move the Court the vacation interim injunction for reasons stated by the Collr. in his letter

RDN 25/11

Secy to Govt. L&F Dept. (Legislative Wing) d. 26-11-54

21N

8

p9/c p11/c

S.Nos. 70776+72821 A+F-D

b submitted with my l.o. dated 20-11-54. p.1/N

On receipt of L.D. letter, dated 24-11-54 Collr's report may be awaited ~~for a fortnight~~ - Till 10.12.54 p.11/c

29/11/54 SOH ~~Tuesday 30.11.54~~

R received Collr's wire Rep 'A' p.11/c 29/xi

A-5 (Shri M.)

A 11-5. after

A+FD

S.No. 75487 p.12/c

9 I have ascertained from informal inquiries in the L.D. that this Deptt. is required to scrutinise the affidavit and verify whether the facts stated therein are correct, and also suggest additions and alterations, if any.

Dy Supdt. of Police examine this immediately and return by today evening.

9/xii 2.30

Dy Supdt of

(next page)

3/N ASFD

9

Resubmitted

11 2. The factual position stated in the Affidavit (pages 61-71-c) is correct. The suit is actually to be defended on the lines of R.D.'s opinion dated (pages 45-47 of X FLD 1453). No modifications or alterations in the Aff. seem necy. pp. may be shown to L.D. for necy. further action, and with the intimation that further information, if any, reqd. by that Deptt will be supplied

X Slip K

SOH
9.12.54 12

The following amendments are for consideration:-

(i) Portion bracketed in red on pp. 65-67/c - This does not seem necy. and might be omitted. It might be urged, if necy, that the question whether the lands shd be resumed was already under Govt's consideration following requests from individual cultivators to lease the lands to them

As (Streem)

Ans

Necy

Solicitor to Govt. may see L.D.

(ii) Portion bracketed in red on p. 69-c:- May be omitted.

(iii) Portion bracketed in red on p. 71/c:- The L.D. may suitably amend this with ref. to para. 1 of its opinion.

X vide pp 3-15/c of FLD 1453

(X) Slip K
FLD 1453

9/XII

SOH
9.12.54

Seen. Await result of the Civil Appln. file 26.12.54. 15/XII

Seen
15.12
Solicitor to Govt.

Dy 15/12

AGRICULTURE & FORESTS DEPARTMENT
Date 15 DEC 1954
FILE No. LD
SERIAL No. J

Legal Deptt

13 A draft affidavit as revised are forwarded to the Govt Pleader High Court with instructions to bring Addl Govt. A copy of the affidavit is appd.

VOR to ALFD No. 28413/E ... 15 Dec 15/12 SM Rdd 15/12.

A. and F.D.

Sr. Nos. 75300, 75347, 76797 — P 81/C, P 133/C, P 85/C.

Pl. see A.S. (Shri M)'s marginal note on br. page. May be awaited till 25.12.54.

20/XII(54)

Reclamation not recd. Pl. put up on 25.12.54 as directed

SOH
21.12.54

Supdt

A and F.D

Sr. Nos. 76797, P 133/C
78250 — P 137/C
79456 — P 137/C

Please see 'x' in P.137/C. Those may be kept in await till 10.1.55.

SOH
28.12.54

Pl. dress file comes. see.

+ One Sir. 29/XII

VK flag was not recd for the above note.

A.S. (Shri M.)

28/XII

A. and F.D/E.

Submitted with ar. Dt. 28.12.54.

2. These ppc may further be kept in await till 20.1.55, when they may be shown up to LD with a request to state the ~~progress done~~ further developments in the matter.

20/1/55.

18/1

AS (Shri. M)

5

II A&FD.

P.141 C/S — FLD 1653/299-E

19 Submitted for information.

2 The pfs may be referred Ld. to the legal Deptt. with a request to state the further developments in the matter.

Ups
27/1/55
24

DS (Juri M)

L.D.
27 JAN 1955
E

Ref. by LD dt. 27.1.55

[illegible] BY TO GOVT. [illegible]
[illegible] GAL [illegible] PAKISTAN
[illegible] NO. 2781
[illegible] E
[illegible] 28/1/55

pfs. brought back from LD informally, on AS's orders.

28/1/55

9 12 A. and F.D/E

S.No. 7336 file/c

20. Submitted.

2. The main topics. (FLD 1453/70305. E)

A | have been referred to L.D. on 27.1.58. That Deptt. may be requested to return them immediately.

* Since attached. 28/1/58

2/ Informal inquiries were made in the L.D. (the pts. referred to at 'A' have been obtained + placed below.) The

A (Shri M) B A | L.D. has not recd. a copy of the judgement nor can it say whether Govt. will be advised to go in appeal against the judgement. The Collr. may be

A Jus. C | authorised to harvest the crop, and keep it in

A S. L.D. | safe custody, and hand it over to the owner agriculturists only on receipt of further orders of Govt. which will issue after further develop-

developments reg. 'B' are known.

13

28/i

SGW
28.1.55

A/S

22

As at C prepage 4 Secy.

L.S. says there is no legal objection to do so

4
28/1.

23 L.D. may pl. confirm that there is no legal objn. to 'C' prepare.

29/1

29/i

Single Court has ~~never~~ made the Rule absolute i.e. that ordered that the property should be ~~transferred and the same taken away~~ restored to the Petrs. ~~The copy judgment is received~~ The Dft is not liable ~~As LD~~ Sol. (C/C) about 'C' unless copy judgment is received.
Dtd 29/1.

A. and F.D/E.

14

Submitted.

24 2. In view of the Solicitor's note dt. 29.1.55 on page 5 the Coll. of Bijapur may may be given a reply in terms of the draft do. put up

29/1/55

25 Pl. return after issue.

29.1.55

A.U.S

A. and F.D/E.

26 The do at P15/c having issued the p/s. are resubmitted

29.1.55.

31

A.U.S.

11 A. and F.D.

15

S.Nos. 17386 f/153/c and 9319 f/153/c

2] Submitted w.r.t. d/o f/153/c dt. 29-1-55.

v f 1 } of the II case
II f 19 } in the bound,

2. Pl. see the H.C. judgement and the L.D. note dt. 1/2/55 thereon. The Collr. of Bijapur may be instructed to restore the lands to ~~Sawantsai~~ Shri. M.V. Patil and others and take action as indicated in the H.C. judgement. The L.D. will presumably take action reg. the payment of costs to the petitioners. The appended telegram and thereafter the letter ~~sent~~ may issue.

v f 157/c

II f 154/c

3/2/55

3.2.55.

3.2.55

~~Attd.~~

~~Secy. 28~~

3.2.55.

3/2

Dm.(F.) } after issue.
m(F.) }

~~Sent~~ issued.

7.00 8/2

9/2

Keeping 4 copies
p 20-21 & one L.D. Page No.
2497 vide 701-E
(To be kept on FLD453/1335-E).

13

16

A.& F.D./E.

29 Submitted.

2. Pl.see o.n. of to-day's date on the linked case. These pps. may be retd. u.o.c. to L.D. after keeping copies of the H.C.Judgement and the L.D. note overleaf. Presumably, that Deptt. will take action on 'A' of the Judgement.

Id/-S.S.A.
3/2/55

A.U.S.

Id/- M.G.P.
3/2

Id/- S.G.(Walavalkar)
3/2/55.

u.o.r. to L.D.dt.4-2-55
9

Legal Deptt.

30 It is for A.& F.D. to arrange for payment o of cost. A.& F.D. may pl.see

Id/-
12/2

Id/-

Id/-
12/2

31 u.o.r. to A.& F.D. No.3331/E dt. 14th February, 1955.

32

A.& F.D.

Returned to the L.D. with the intimation th necy. action is being taken separately for the payment of the cost of the petition.

Id/- J.L.P.

Id/-M.G.P.
13/55

A.S.(Shri M.)

Id/- V.V.M(asurekar)
I/iii

u.o.r. to L.D. dated the 3-3-55.

N.J.3/3

P-163/c

Sr.No.16810. A.& F.D.

Please see G.L.dated 4-2-55 and the proceedings underlying it.

2. The Collr.of Bijapur has now solicited orders of Govt. on the following points:-

i) whether notice of Govt.'s intention to determine the lease of land should again be given to the lessees;

ii) whether on the basis of the termination of the lease by Govt. as made in this case, an order under section 79 A L.R.Code may be passed by the Collr;

iii) whether it is at all necy. to give an opportunity to the lessees to show cause against the proposed action to terminate the lease . The Collr.has also proposed that the draft order proposed by the Dist. Govt.Pleader under Section 79A may be approved.

3. As regards (i) above - Notice of Govt.'s intention to determine the lease and resume the land on the ground that the lessees have committed a breach of condition, was given by the Collr. before and thereafter the possession was also taken from the lessees. However the lessees approached the High Court and according to the High Court's order the possession of the land had to be restored to the lessees. The Dist. Govt.Pleader is of the opinion that it is not necy to issue a fresh notice, since such a notice was issued before as stated at 'A' above. This view does not seem to be correct, since the previous notice will have now no force in view of the High Court's subsequent judgement to restore the possession to the lessees. In view of this and to err on the safe side, the Collr. may be asked to issue a fresh notice in this respect to

16 18

to the lessees.

36 4. As regards (ii) - The High Court's Judgement and Govt.orders on this point are quite clear. In view of the High Court's Judgement it seems now necy. to start with this case afresh. Attention in this connection is requested to 'B' and 'C' of the High Court's Judgement. In view thereof it seems necy. that the Collr.should issue necy.orders under section 79 A of the L.R.Code. The Collr. may be informed accordingly.

← P.159/c

← P.173/c.

THE SECRETARIAT
LEGAL DEPARTMENT
File No. 7207
Sub No. A
Branch 11-355

37 5. As regards (iii) - As stated by the Collr, if an opportunity to the lessees to show cause against the proposed action to terminate the lease, is not given, they may contend at a later stage that the lease was terminated unilaterally without giving an opportunity to them of being heard and thus it may be alleged that the principles of natural justice were violated. In view of this and to err on the safe side an opportunity may be given to the lessees to show cause against the proposed action to terminate the lease.

38 6. Regarding 'X' above, the draft order proposed by the Govt. Dist. Pleader seems to be in order subject to the remarks that the ref. quoted at 'D' thereof will have to be suitably ~~submitted~~ substituted in view of the fresh notice proposed to be issued as suggested above.

L.D.
10 MAR 1955
A

39 7. The R.L.A. may see these pps. u.o. before suitable draft letter to the Collr.is put up.

× See exhaust at p.202/c

7.3.55. 8/3

LO Reg. para.5 above Sec.202 requiring the serving of a statutory notice does not specify that opportunity shd.be given to the lessee to show cause why the proposed action (eviction) shd. not be taken. However the R.L.A. may advise whether in the circumstances of the present case such a course is advisable.

A.S.(Shri M.)

A.U.S.

Secy.
D.M.(F.)
M.F.F.) after u.o.r.

41 It is clear from the High Court's judgment that an order by the Collr. under S.79-A and a notice under sec.202 of L.R. Code are essential. The R.L.A. will however please confirm and also advise about point (iii) overleaf.

8(iii)

8.3.55

P.P. to be sent to L.D. 8/3

u.o.r. to L.D. (with F.P.) dt. 10/3/55

19[illegible]

Legal Department.

Bombay Land Revenue Code - Sections 79A and 202.

42 The validity of the termination of the lease in this case has not beendoubted by the High Court in its decision in the Spl. Civil Application No.2444 of 1954. It would not, therefore, be necessary to terminate the lease afresh or to again give notice of Government's intention to determine the lease. Consequently, the question about giving an opportunity to the lessees to show cause against the proposed action of Government to terminate the lease would not arise. According to the High Court judgment the possession of the lands in question has not been lawfully taken in this case as the provisions of sections 79A and section 202 of the Bombay Land Revenue Code were not followed for the same. On the basis of the termination of the lease under Government orders dated 13-10-54 the Collector should, therefore proceed to take action under section 79A and section 202 of the said Code as indicated in the High Court judgment.

18/3/1955

Joint Secretary to Government.

RMS.
18.3.

U.R. to A. & F.D., No. 6020/19 dated the 18th March 1955.

AGRICULTURE & FORESTS DEPARTMENT
Date 19 MAR 1955
FILE No. ELD-1453
SERIAL No. E-2704

V. mut.
Suit.
22.3.

18/N A.&F.D. 20

Submitted with ref. to flag note ✓ P. 15 ✓

dt. 8-3-55.

43 2 In view of L.D.'s note marked, the attached draft orders are put up for approval and may issue.

28-3-55

29

A.S. (Statistics)

30-3-55 A.G.S.

31.3.55 Secy.

D.M.(F)

4/4 M(F)

Ans FD/E

Sr. No. 28131

44 A copy of the letter from the Collector of Bijapur may be forwarded to the C.C.F and his remarks obtained before agreeing to the Collector's proposals.

45 The draft letter put up may issue.

46 It does not seem necessary to ask for C.C.F's remarks. As the payment has been ordered by the Court, Govt may sanction payment of Rs. 416-00 and the C.C.F may be asked to recover the amount from the concerned Forest Officer.

15/3/55

28/3

FINANCE DEPARTMENT
File No. IV
Date 3-6-55
Serial No. 28971

Sec 3/6

x with file.

19/M Finance Deptt. IV — 21

47 Seen and returned w/r to the A&FD.
6-6-55

48 F.D. may agree to the proposal made by A.S. A&FD in his note dated 2.6.55.
9.6.55

A.S.(F)

49 Letter to A&FD dt 9-6-55 with file FLD 1453/53

AGRICULTURE & FORESTS DEPARTMENT
Date 11 JUN
FILE No.
SERIAL No. E 50589

Supdt I 13/6. Received

A&F.D

50 Submitted w/r to the S.A.S.'s note dt. 2-6-55

2 F.D. having agreed to the proposal, the enclosed letter covering the explr is submitted for approval.

51 3 The Collr. of Bijapur in his letter dt. 19-5-55 has solicited orders of Govt. as to the way in which the land in question is to be disposed of after it is resumed from the lessees. In this connection, it may be stated Shri C.J. Aubli, M.L.A. and other Harijans of Galgali had requested Govt. to grant the land out of F.S.No 215 & after taking it back from the four lessees, to the needy backward class cultivators. The Collr. of Bijapur, however, in his letter dt. 30-6-53 has recommended that the land may be retained as forest area as has been done in respect of F.S. No 225-A of Yadhalli.

Desp. No. Land in Dec. 1953

Here, it may be pointed out that Govt.'s policy in respect of the disposal of forest land has clearly been defined under G.R. No FDM 1054 dt. 8-12-54. The C.C.F. may .'. be asked to take action in the matter in the light of the orders issued in the said G.R. The Collr. may be asked to hand over the possession of the land to the Forest Deptt after its resumption from the lessees. The letter and endt (ul) as may issue. ↗ p.205/c

20/N/22

Copy (ul) as

18/6/55

S.A.S.

21-6-55.

4/8.

To be discussed 22/6 D.M.(A&F)

SM(F)

D.M.(F.)

Discussed

The collector may be asked to dispose the said lands to the Harijans as per G.R.R.D. LND 3953 IB. of 20-8-1954.

The conditions regarding preservation of soil on the banks of the river by planting suitable trees may be included in the agreement.

23/6

M(Forests)

Pl. refer to A&D Deptt

27

23/6

against the order passed by the Collr. of Bisalpur terminating the lease of the land given to them and resuming it to Govt. Attention in this connection is invited to G.L. No FLD 1453-J dt: 29-9-54 and G.L. No FLD 1453/16816L dt: 6-4-55 wherein Govt. has directed the Collr. to resume the land in question as the lessees had violated the terms of the lease and to take action under the provisions of L.R. Code. Further, Govt has ordered to dispose of the land to the Harijans as per G.I.R.R.D. No LND 3953-V-B dt: 20-8-54. In view of this, the present appeal need not be considered. The applicants may be informed that Govt sees no reason to interfere with the orders passed by the Collr. The letter put up may issue

22/N

1891/C

THE SEC... LEGAL ... BRANCH
File No. 2... 60
Sub No. 2... 55
Branch A

L.D. 22 JUL 1955

put up

see A.U.S. pl. dated 7-8 & the case of Sp. at p. 21 C/C must summarise the case by forest land?

Sp. 19.7.55

H.U.S.

20.7.55

Secy (S/7 for info.)

Sp. M. (for info. at this stage pls)

21/C

14/7/55

The Collr's action is in conformity with Govt decision, which has been taken after careful consideration. No revision of the orders is necy. The proposed letter may issue

SDO 14.7.55

Yes, but in view of the likely litigation and the past history of this case, L.D. may see the reply before issue.

VdS 16.7.55

Note L.D. dt-21-7-55

ASFD

53 Submitted w/r to D.M.(ASF)'s minute dt:- 28.6.55.

The letter and endl- ~~of~~ at p205/c may issue as amended.

2/7/55

4/7

~~S.A-S.~~

p207/C

Sr.No 78707

ASFD

54 Submitted for instn w/r to G.L. dt: 6.4.55. p189/C

Sr.No. 78624 → p209-211/C → p209/c

Shri R.Y. Patil and others, for the reasons stated in their dt: 11-7-55, have appealed to Govt.

EJO

Sr.No 86884 P.221/C 23/N 23 AS.

57 These pps. have been obtained from the L.D. to dispose of the d/o. letter dt: 19.7.55 P.221/C from the Collr. of Bijapur. They will again be shown to L.D. w/r to the Secy's note on (or) page in due course.

58 2 Under G.L. dt: 6.7.55 P.205/C, orders have been issued to dispose of the forest land comprised in S.No 125-215 of Galgali, after its resumption from the lessees, to the Harijans in the light of orders issued in G.R. R.D. No 3953 V-B dt: 20-8-54. The Collr. has now sought clarification as to i) whether the disposal of the land in question shd. be governed by the R.D. G.R. dt: 20-8-54 (which relates to the disposal of Govt: waste lands) or G.R. No FDM 1054 dt: 8.7.54 which governs the disposal of forest lands and ii) whether the grant of land shd. be permanent or temporary.

57 Attention in this connection is invited to D.M.(A&F)'s minute dt: 28-6-55 from which it is evident that Govt's intention intends to dispose of the land as per R.D. G.R. dt: 20-8-54. It is presumed that the land is to be disposed of permanently to the Harijans subject to the confirmation of the presumption, the Collr. will be asked to submit to Govt: necy. draft notice disposing the land and necy. instructions will be issued to the Collr. in case after showing the ppr. to R.D and F.D.

25/7/55
26
D.M.(A&F)

26.7.55

61

27/7

31/7

D.M(R)

P.T.O.

b2/ Submitted w/r to O.N. overleaf.

2 The draft letter and endl. at-223/C (our ref.) may issue. The case is marked direct to R.D./FD in view of the urgency.

O.N. 4/8/55 S.A.S.

4/8/55

REVENUE DEPARTMENT,
SECRETARIAT, BOMBAY.
5 AUG 1955

6/8/55 A.S.(R.D.)

6/8

A.S.(A.D.)(F)
8/8/55

6/8

A.D. :IV

b3 The A.O.F.D. proposal may be agreed to.

RDJ Discussed with D.S.
8.8.55 2. Since the land to be resumed is a forest land, it would be appropriate [DS(F)] if the orders contained in G.R., A.O.F.D. No. FDT 1054 dt. 8.7.1954 are applied in this case instead of those in G.R. R.D. No. LND 3953-V-B dt. 20.8.1954.

12.8.1955

The Rem. of 20.8.54 is applicable only to fort waste lands. It is not clear why the R.D. has proposed to regulate this case under that Rem. The case is submitted for orders

A

14/8/55

AGRICULTURE & FOREST DEPT.
Date of Receipt
17 AUG 1955
File No. FLD 1453 II
Serial No. 97581

14-8-55

Pl issue sanction
RDJ 16

now to the A.-F.D. of 16.8.55

25/N

25 A&RD E'

It is not clear from the F.D's notes on file whether that Deptt has agreed to the proposal made by this Deptt. It appears, however, that F.D. is reluctant to the application of GR. R.D. No LND 3953 V.B dt. 20-8-54 in the present case and favours the application of G.R. FDM 1054 dt. 8-7-54, as the land in question is forest land. In this connection it may be stated that Govt. desires to grant the forest land in question permanently and no forest land can be given permanently, unless it is disforested and as soon as it is disforested the land is as good as Rev. Waste and its further disposal is governed by the Revenue orders, except in those individual cases which comes under the purview of para 2(v) of GR. FDM 1054 dt. 8-7-55. The present case does not fall under para 2(v) of GR. dt. 8-7-55 in as much as the land has been withdrawn from the present lessees for breach of conditions and as such the question of permanent grant to them does not arise. It is obvious that the permanent disposal of the land under discussion must be governed in accordance with the standing orders of Govt. in Rev. Deptt.

In views of what has been stated above F.D. may again be requested to agree to the proposal made by this Deptt. in its U.O. dt. 4-8-55.

IV
20-8-55
43315

18/8/55

Dy. Secy. F.D.(F).
19-8-55.

Permanent grant of forest lands on the lines of the orders issued in G.R., R.D. No. LND-3953-V.B, dt 20.8.54, has been specifically indicated in the orders reg. grant of forest lands in Kanara vide paras 3(d) and 7(d) of G.R. No. FDM 1054 dt 28.1.55 and G.R. No. FDM 1054, dt 7-3-55.

18.8.55

Finance Deptt:-

Submitted with reference to this Deptt. noting on p. 24 ante.

2. In view of the clarification given in the foregoing A.F.D. note, it is for consideration whether the proposal made therein may be agreed to.

R.D.
22.8.55

23.8.1955

The orders proposed by the A.&F.D. may be agreed to, Subject to the remark that a reference to the orders contained in G.R. R.D. No. LND. 3955/38400, dated 10.6.1955, may also be made in the orders to be issued by that Deptt.

2. These papers may be Returned to the A&F.D. through the R.D.

27.8.55.

DS(F)

30/8

Secy

31/8/55

Now to the R.D. A.-S.D. of 1.9.55

R.D.
P

Seen & returned now to the A&FD.

29.8.55

6.9.55

now to A&FD dated 6-9-55 with reference

REVENUE DEPARTMENT
File No.
-3 SEP 1955
Serial No. P

AGRICULTURE & FOREST DEPT.
Date of Receipt
- 6 SEP 1955
File No. FLD 1453
Serial No. E 10841

27/A 27 A&RD 85

Submitted w/r o.n. dl: 18-8-85 and the AAO's note under it.

2 J.D. having agreed, the letter and endt. at P 223/C may issue as slightly amended.

9/9/85

U.S.(Stmp) 9/9

THE SECRETARY TO GOVERNMENT,
LEGAL DEPARTMENT.
No. 27214
Sub No. A
Branch 16-9-85

73

A&RD

The case may now be referred back to the J.D. w/r to the Secy's note dl. 16-9-85.

12/9/85

15 SEP 1955

Rupees 3 only

S/Sh-S. to the J.D. dl. 16-9-85

29

28

Legal Department.

The appeal except paragraphs 7 and 8 thereof deals with the point as to whether or not any breach of the terms of the lease has occurred and whether Government was right in determining the lease. As pointed out in the Joint Secretary, Legal Department's opinion No. 6020/A, dated 18-3-1955 the validity of the termination of the lease in this case has not been doubted by the High Court. The High Court having held the lease to have been validly determined by the Government the points raised by the petitioners in the appeal in this behalf do not survive.

2. The High Court has also agreed with the Advocate General in Special Civil Application No. 2422 of 1954 that the position of the lessee in this case is that of an occupant under section 68 of the Bombay Land Revenue Code, 1879, and that the right of the petitioners to continue as occupants, therefore depends upon the fulfilment by them of the terms ~~x~~ annexed to their tenure, which terms are to be found in the lease executed by Government. When the Government terminated the lease, the lessees were wrongfully in possession of the land and the High Court held that the Collector had the statutory power summarily to evict the petitioners under section 79A. In view of these observations of the High Court the contentions of the petitioners in paragraphs 7 and 8 of the appeal are also not tenable. There would, therefore, be no objection to reject the appeal as proposed by the Agriculture and Forests Department.

...ICULTURE & F... DEPT.
... Receipt
24 DEC 1955
29
File No.
Serial No. E 155069

Joint Secretary to Government.

U.R. to A. & F.D., No.28845/A, dated the 24th December 1955.

cks/22.12.

ASRO-I

1) Submitted w/r to Secy's (Shri Sandesai)'s note dt. 16-12-85. P 22/N

2. In view of the L.D.S opinion overleaf, the letter at P 21/C may now issue.

26/12/85
22

P
27/12.

(Shri P)

Secy.
28/12

31/12

Agre. and Forests Deptt-E 30

Sr.No. 51619 — p 235/c

The history of the case, so far as it relates to the present communication from the C.C.F, is as under:—

Certain lands out of F.S.No.215 of Galgalli in Bilgi Petha ~~and~~ of Bijapur district had been leased out in the year 1942-43 for a period of 15 years, to four land-lords from the village for the purpose of establishing a Combined Cattle Breeding and Mixed Farming Project. As the lessees had made breach of certain conditions, the matter was reported to Govt. Govt. after examining the case directed to the Collr. of Bijapur to terminate the lease and to resume the lands (vide G.L.No. 1453-J, dt. 29-9-54). While the question of resumption of the land in question was being considered by Govt. it was reported by the Forest Deptt. that the lessees have also encroached on an area of 4.5 acres of neighbouring sandlewood plot and have cultivated the plot by removing valuable plantations. Govt., therefore, in consultation with L.D. directed the Collr. of Bijapur to take steps to ~~evict~~ evict the encroachers, after consulting the ~~forest~~ forest Deptt. and if necessary rent by way of compensation should be recovered from the lessees in the respect of this land(vide Para. 2 of G.L.dt. 29-9-54).

2. The C.C.F. now states that as the lessees had tampered with the reserved boundary stones over the Govt. forests the offence is not ~~compendable~~ compoundable under Section 68 of the I.F.Act as it is an offence under Section 63 of the I.F.Act. The matter was therefore referred to the D.G.P., Bijapur with a view to decide the

F No 1763/Law

1>7 49/28 31

He is of the opinion
the further course of action. ~~who opined~~ that it
is difficult to fix up the offences against any
particular offender and that the offences of
~~trespass~~ transfers and theft which are disclosed are
sections
punishable under the I.P.Code ~~Schemes~~ 447 and
379 respectively and are congnizable offences in
addition to they being punishable under the
I.F.Act. He has therefore suggested that the
case may be entrusted to the police so that
if they are able to collect evidence they will
send up the case. The C.C.F.has solicited
orders of Govt. on the D.G.P's suggestion. In
view of 'A' and 'B' above, there seems no
objection to approve of the D.G.P's suggestion.
Before, however, this is done, L.D.may see this
u.o. and advise.

B

2086/57(Opns)
Law III

9/7/6.

6.6.56.

U.S.(Shri P.

Secy.

D.M.(A.& F.)

M(F.)

@ with case papers + file no FLD1453.

@ not to me L.D 8-6-56

THE SECRETARY TO GOVERNMENT,
LEGAL DEPARTMENT.
File No. 17886
Sub No. 9-6-56
Branch A

L.D.
8 JUN 1956
A

The papers may be sent to the Law Deptt. for advice

4969/Dev
25/10/57

Legislative

Law Deptt.

F.No 1763/Law
Sec. III
12-7-57

On the circumstances stated in the note I suggest that the course suggested by the D.G.P. appears to be appropriate.

Secretary (A & P)

ND/6.6.

Serial No.

The L.D. also supports the suggestion of the Govt pleader in taking action against the offenders. The C.C.I may therefore be directed to take action as suggested by the Govt pleader. A draft reply to the C.C.I is put up for approval.

A1D 2no DGTS

14/11/57

85 Dmt 20/11

86 The C.C.I has been reminded to communicate further steps taken by him in removing encroachment. Reminder is put up below for approval.

14/3/58

87 Dmt 3/3

Reminder issued

88 DNo. 13024/58 18.3.58

Reminder to C.C.I is put up for approval

6/12/58 · 87 (sic) and noted on 2.12.58

10/12

10.12.58

Issued

15/12

Gus. 12-2-59 90 Diary No. 139

P.U.D. may be filed for the present as the same is informatory one.

15.1.59

14.1.59

8.1.59

Note.—Contn. Sheet

File No. AFD 240 DST-57 of 195 .

Mysore Government Secretariat

Serial No.

91 D. 139 (p.259) & 2203 (p.261) are in the name of an inferior Deptt. We may await a final report as suggested therein and then take further action.

Asst. 4/8/59. 92 The CCF may be reminded demi-officially

Sd/-

Sec. Pub. 18659. 93 Asst. 19/8

94 Reminder put up at p.267/c

Asst. 22/8. Sec. Pub. 24659 95 Asst. 25/8

Sd/- Asst. 2/9

DO No. 7266 (Letter No. B3-111-1888/56 dated 29.7.1959 from the CCF).

96 CCF's letter at 269 is an administrative reply. Further communication as promised will be awaited till 21-X-59. The CCF may be reminded

Asst. 14/9/59 Sec. Pub. 15959 97 Asst. 15/9

Fair reminder submitted for signature.

Sd/- Asst. 21/9

Asst. 17/9/59 Sec. Pub. 17959 99 Asst. 17/9

WD-0136-GPB—P. Z. S.—80,000—21-4-57.

Serial No.

100 D.No AFD 9381/59 Page 270/c

The pud is for Perusal. The CEF may be expedited. Dft reminder put up for appl.

PM
7/12

DS

101

Issued
12/12

Co 12-59

102. D.No AFD 11794/59 P 272 to 275/c

The pud is for Perusal. Further report from the CEF may be awaited.

PM
18/12

DS

103.

Remd 15/1/60. pl.
AF
SO 1

26/12/59

104. Dft reminder is put up for appl.

PM
15/1/60.

DS

105.
AF
12

Co
16.1.60

Sus
PM. 5/2

106. D.No AFD 1673/60 P279/c

The P.U.D is for Perusal.

Further reports from the CEF may be expedited. Dft Reminder put up for appt.

Sus
PM 14/4

Note.—Contn. Sheet

PM
30/3

107

DS
31/3

PM
31/3

File No. 240 DST of 1957.

Mysore Government Secretariat

Serial No. CF

108 D No AFD 4075/60 P 287-28

The P.U. Drs for Perusal
further report from the Supdt of
may be expedited. DFO
reminder put up for appl.

PM 21/6

109. Issue C/L
M.660

C/L
M.660

110) D No AFD 9438/60 P 290 to 298/CF

DNS
PM 29/6

The P.U. Drs for
Perusal. It is seen from
the papers that the lessees
of the S.N. 255 of Galgali
leased out for combined
Cattle Breeding and mixed
farming project have
encroached upon the area
of 4.5 acres in the Sandal
wood plot. The DC, Bijapur
had requested the Project
officer, Jamkhandi Division,
Jamkandi to take steps
in consultation with the
Sub-DFO, Bagalkot to evict
the encroachers.

WD 04700—GPB—PZS—8,00,000—1958

Serial No.

III) please see a copy of summary of Magistrates final order at page 293/CF. The Sub-DFO, Bagalkot stated as there was no sufficient evidences to send up charge sheet against the accused, the case was reported by the police for "A summary and A final" and accordingly "A summary" was issued from the Judicial Magistrate first class Bagalkot.

112) In the circumstances, the CCF states no further action can be taken and therefore the file may be closed as suggested by him.

PD
4/11/60.

For perusal--

3/11 4/11 113 There are two questions to be dealt with in the file viz (1) question of resumption of the leased lands & (2) unauthorised encroachment on an area of 4 to 5 acres in the neighbouring land at Hoti plot. CCF's present report is about the question 2. How the first subject has been

Note.—Contn. Sheet

File No. DLD DJT of 1957

Mysore Government Secretariat

Serial No.

disposed of may be examined & put up.

US 5/11/60

Read on 9/11/60 PM

114 Kind refee is invited to the orders issued by the Govt of Bombay in NO FLD 1453/43841 E dated 6-7-55 (Flag 'A') Ref para 113

PM 10/11/60

DEPUTY SECRETARY TO GOVT. NO. 2224/F 22 NOV 1960 AGRICULTURE & FOREST DEPTT.

3 11/11 115 The file may be closed for perusal & orders

11/11/60

~~A.S.~~

Before closing the ~~fps~~ files, let us 116 have information on

a) whether orders issued by the Erstwhile Bombay Govt in their letter d. 6.7.55. re: release of resumed lands have been given effect to

b) Whether the encroachers on Sandalwood plots in Bilgi Petah have been evicted.

KG 22/11

MYS 22/11

The above information does 117 not appear to be available from the file. Draft letter enquiring the ccf is put up for appl

Issue US 1/12/60

PM 28/11/60

3 30/11

Issued on 1/12/60

1/12

VD 04700—GPB—PZS—8,00,000—1958

Serial No.

118

No report has been recd from Cef since Dec'60. It is for orders whether the file may be closed as suggested at Para 115 Cf. or Pursued by issue of a reminder.

RSR
26/9/62

A

119) A — yes - Pl put up draft

JR
30/9/62

2
27/9

120 Dft Put up for appl

RSR
1/11/62

23/11

Issue

JR
4/10/62

Issued on 15 OCT 1962

15/10

Recd Sl no. 299 - Cef
B3 - III - 1888/56 dt 16.11.62

121) The original report seems to have not been recd. A copy of it will be obtained. Dft Put up for appl.

RSR
5/1/63. 3/11

Issue

JR
13/1/63

Issued on 16 JAN 1963

16/1

Recd Sl no - 303 Cef
B3 - III - 1888/56 dt 4.2.63

B
RSR
26/4/63

The letter at P 307 Cf answers Para 116 N.F. No further action is required on the file - May be closed after perusal

2

RSR
24/4

2
28/4

JR
26/4/63

Note.—Contn. Sheet

M. G. S. App. F VI—G. 2]

SUBJECT Encroachment of Sandalwood plots in S. No. 215 of Yalgali 39

Diary No. of letter replied to.....

Section

Serial No.
D.O. No.
File No. AFD 240 DST 57

Mysore Government Secretariat

( )
the 195 .

Proceedings of the Government of Mysore dt 1-7-57

Date of issue.....195

Signed by.....

Issued
1/7/57.

Dear Dr. Kadambi,

Read—

I am ~~directed~~ to invite your attention to your ~~kind~~ reference to your letter of even no. dated 23-11-57 on the Subject noted above & request that the report called for Thereon may be furnished to Government ~~immediately~~ as soon as further delay.

Yours Sincerely.

25/6

May this be—
(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

To

Dr. Kadambi, M.Sc. D.Sc.,
(Musicl)
CCF Bangalore.

Note 24/6.

40268

No.B3-111-1888/56. Elne

To

CHIEF CONSERVATOR'S OFFICE,
BANGALORE: DATED: 29-7-59

The Secretary to the Government,
Agriculture and Forest Department,
B A N G A L O R E.

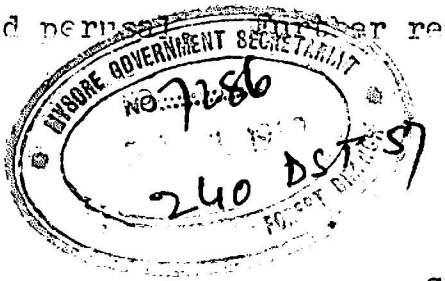
Sir,

Subject:--Encroachment of Sandalwood Plots in Survey No.215 of Galgali

---

Reference:--Your letter No.AFD 240 DST57 dated Ist July 1959 and this office D.O. letter of even No. dated 6th July 1959.

I enclose a copy of letter No.B.1553, dated 14th July 1959 from the Sub-Divisional Forest Officer, Bagalkot, for kind perusal. Further report is awaited.



Yours faithfully,

(K. KADAMBI)
CHIEF CONSERVATOR OF FORESTS.

B.K.25/7/2.

41 209

Copy of letter No.G/1553 of 1959-60, dated 14th July 1959, from the Sub-Divisional Forest Officer, Bagalkot, addressed to the Chief Conservator of Forests, Mysore State, Bangalore.

Reference:--Your D.O.No.B3-111-1888/56 dated 6-7-59 addressed to the Dy. Secretary to Govt. and copy to this Office.

Subject:--Encroachment of Sandalwood plots in S.No. 215 of Galgali.

I have to report that no communication from the District Supdt. of Police, Bijapur regarding the action taken in the matter and the progress so far made by the Police Dept, in the investigation, has so far been received in this Office inspite of reminders issued under this Office Nos.G/1086 dated 24-1-59 G/5864 dated 11-2-59, D/209 dated 20-3-59, D/209/75 dated 6-6-59 and D/209/II dated 16-6-59 and G/1434 dated 3/6-7-1959, and hence further report in the matter, will be submitted on receipt of reply from the Superintendent of Police, Bijapur. He has again been expedited in this connection.

"C O P Y"

for CHIEF CONSERVATOR OF FORESTS.

B.K.25/7/2.

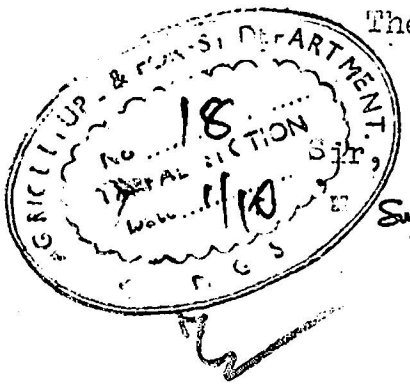
42 270

CHIEF CONSERVATOR'S OFFICE

No. B3-111-1888/56-57. BANGALORE:DATED 30 SEPT. 1959-

To

The Secretary to Government,
Agriculture and Forest Departments,
Bangalore.



Sir,

Subject: Encroachment of Sandalwood plots in S.No.215 of Galgali in Bijapur District.

Your reminder letter No.AFD 240 DST 57 dated 13-9-59.

Further report from the Sub Divisional Forest officer, Bagalkot is not yet received. He is being reminded again to-day to expedite, and on its receipt necessary report will be submitted to Government.

Yours faithfullu,

CHIEF CONSERVATOR OF FORESTS.

29/9

43

M. G. S. App. F VI—G. 2]

SUBJECT Encroachment of Sandal plot in S. No 215 of Galgali in Bijapur District

Diary No. of letter replied to.....

Mysore Government Secretariat

( )

the 195 . 15

Date of issue.....195

Signed by.....

Reply has since been received PM 18/12

May this be

(i) printed ?

(ii) treated as a Standing Order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the Press ?

(vi) published in the Gazette, Kannada Part ?

P 270/c

Section

Serial No. } AF 24 o

File No. } DS.T 57

~~Proceedings of the Government of Mysore~~

Read To the ref for, with refce to the correspondence ending with your letter no B3-111-1888 Order thereon.—No. 56-57 d 30-9-57 on the subject noted above, I am directed to enquire if further report has since been received from the Sub-Divisional Forest Officer, Bagalkot. If so, the same may kindly be sent to this dept with your remarks thereon early.

PM 20/12

PM Dr 20/12

44 272

No.B3-111-1888/56 Chief Conservator's Office,
Bangalore, dated 8-12-1959.

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

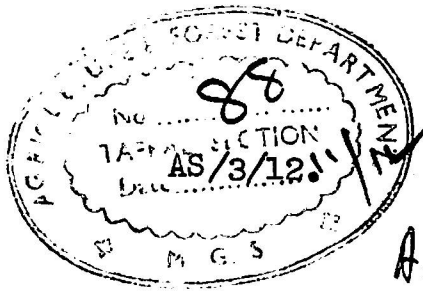
Sir,

Sub:-Encroachment of sandalwood plots in S.No.215 of Galgali in Bijapur District.

In continuation of this office letter of even number dated 30-9-1959 (vide your No.AFD 240 DTS 57), I enclose a copy of letter No.22/30/2616 dated 13-11-59 from the Conservator of Forests, Belgaum Circle along with its enclosure for kind perusal. Further report will be sent on hearing from the Conservator of Forests.

Yours faithfully,

(K.KADAMBI)
Chief Conservator of Forests.



45 273

Below No.C/804 dated 4th/5th November 1959 from the Sub-Divisional Forest Officer, Bagalkot.

Subject:-Encroachment of Sandalwood plots in S.No.215 of Galgali in Bijapur District.

No.22/30/ of 59-60.
Belgaum, November 1959.

Submitted to the Chief Conservator of Forests in Mysore, Bangalore with reference to his No.B3-111-1888/56-57 dated 30th September 1959 for favour of information.

2. Further report will be submitted in due course.

(D.Nanjundappa)
Conservator of Forests,
Belgaum Circle.

Y.12.

46 978

Letter.

Subject:- Encroachment of sandalwood plots in S.Nos215 of Galgali in Bijapur District.

No.C/804 of 1959-60,
Bagalkot, 4-11-1959.

To,

The Conservator Of Forests,
Belgaum Circle,Belgaum.

References:- Your No.22/30/9597 dated 17-10-1959.

The Superintendent of Police,Bijapur states in his letter No.16/F/4/1195 dated 26-10-1959 that the matter is still under correspondence and the openion of the Senior Police Prosecuter,Bijapur has been sought for,on receipt of which, action taken would be communicated to this office.A copy of the letter of the Supdt. of Police is enclosed herewith.

(M.A.Naik)
Sub-Divisional Forest Officer,
Bagalkot.

47 275

No.16/F/4/1195. Bijapur, 26th October 1959.

To

The Sub-Divisional Forest Officer,
Bagalkot.

Subject:-Encroachment of Sandalwood plots in S.No.215 of Galgali.

Ref:-Your letter No.G/3008 dated 9-10-1959.

Sir,

The matter is still under correspondence. Opinion of the Senior Police Prosecutor, Bijapur is sought for. Further action taken in the matter will be communicated in due course.

Sd/- * * *
For Suptd. of Police, Bijapur.

Copy,

Member
Conservator of Forests, B.C.

Y:12.

M. G. S. App. F VI—G. 2]

48 277

SUBJECT Encroachment of Sandalwood plots in S.No 215 of Gulgali in Bijapur District

Diary No. of letter replied to.....

Section

Serial No. AFB 2140

File No. 25 T 57

Mysore Government Secretariat

( )

the 195 .

Proceedings of the Government of Mysore dt 4-2-60.

To The CCF

Date of issue.....195 .

Read—

Sir, please refer to the correspondence ending with your letter No B3-111-1808/56 dt 8-12-59 on the subject noted above and intimate

Signed by.....

P 272/C Mys

Order thereon.—No.

to enquire if further Whether further report from the CF, Belgaum has since been received If so the same may kindly be sent to Govt early with your remarks thereon.

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Issued
4/2/60

MJ
A

MJ 9/2/60

CHIEF CONSERVATOR'S OFFICE,

No. B3-111-1888/56 BANGALORE: DATED 19 FEB. 1960.
Encl: Two.

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

Sir,

Sub: Encroachment of sandalwood plots in S.No. 215 of Galgali.

Ref:- Your letter No. AFD 240 DST 57 dated 4-2-60.
P277/C

I enclose a copy of letter No. 22/30/2449 of 59-60 dated 22-1-60 along with its enclosure received from the Conservator of Forests, Belgaum circle for kind perusal. The Consevator of Forests is being asked to send up his further report in the matter . I shall write to Government again on receipt of his report.

MYSORE GOVERNMENT SECRETARIAT No. 1673 22 FEB 1960 FOREST BRANCH

Yours faithfully,

Chief Conservator of Forests.

SVV

Below No.16/F/4/1195 of 30.12.1959 from the District Superintendent of Police, Bijapur.

.....

Subject:-Encroachment of Sandalwood plots in S.No.215 of Galgali.

No.22/30/ 2449 of 59-60.
Belgaum, 22nd January 1960.

Copy submitted (in duplicate) to the Chief Conservator of Forests in Mysore, Baggalore in continuation of this office No.22/30/2616 of 13.11.1959 for favour of information.

D. Nanjundappa

(D.Nanjundappa) 21/1
Conservator of Forests,
Belgaum Circle.

SGJ.20.1.

Letter No.16/F/4/1195 dated 30.12.1959 from the Superintendent of Police, Bijapur, addressed to the Sub-Divisional Forest Officer, Bagalkot.

.....

Subject:-Encroachment of Sandalwood in S.No.215 of Galgali.

Ref:-This office even No. dated 26.12.1959.

After thorough investigation, the case at Bilgi P.S. Cr.No.50/59 u/s 447,379 IPC and 63 Indian Forest Act has been reported for 'A' undetected summany. Summary from the Judicial Magistrate, F.C., Bagalkot is awaited.

.....

Copy with compliments to the Conservator of Forests, Belgaum Circle, Belgaum for information.

Sd/- * * * * * * *
For Superintendent of Police,
Bijapur.

.....

" C O P Y "

D. Ramachandrappa
Conservator of Forests, B.C.

SGJ.20.1.

M. G. S. App. F VI—G. 2]

SR 285

SUBJECT Encroachment of Sandalwood plot in S.No 215 of Galgali

Diary No. of letter replied to.....

Mysore Government Secretariat

( )

the 195 .

Date of issue..... 12/11 195 .

Signed by.....

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Section
Serial No. AFD 240
File No. DSTS 7

~~Proceedings of the Government of Mysore~~ 12-11-60.

~~Read~~

To The CCF

Ref 1 Reference your letter No B3-111-1888/56 & 19-2-60 -

Please expedite further report promised therein without any delay.

Order thereon.—No.

2/7.

Kb 31/3

DS to Govt

AM AFD

53 287

Chief Conservator's Office,
No.B3.11-1888/56 Bangalore, dated 30 April 1960.

To

The Conservator of Forests,
Belgaum Circle, Belgaum.

Sir,

Sub:- Encroachment of Sandalwood in S.No. 215 of Galgali.

Ref:- Your letter No. 22/30/9 of 59-60 dated 2-4-60.

A copy of " A' Summary No.55 dated 16-3-196 " from the Judicial Magistrate, F.C. Bagalkote, should be obtained and submitted immediately for being sent to Government.

Yours faithfully,

sd/-
Chief Conservator of Forests

p.t.o.

DVE.

288

54

Copy of the ~~above~~ foregoing is forwarded to the Secretary to the Government, Agriculture and Forest Department, Bangalore with reference to letter No. AFD 240 ~~FST~~ 57 dated 12-4-1960. Further report will be sent on receipt of Conservator of Forests report.

Chief Conservator of Forests.

M. G. S. App. F. G. 3]

MYSORE GOVERNMENT

SECRETARIAT.

(Continuation sheet draft form).

Issued on 28/6/60

28/6.

Sub: Encroachment of Sandal wood in S. No 215 of Galgali 28

To The CCF 55

Sir,

I am directed to invite your attention to your letter No BJ-11-1888/56 & 30-4-60 addressed to the CF, Belgaum and Copied to the Secy to Govt A&F on the Subject noted above and to request you to state if further report has since been received from the CF, Belgaum. If so, the same may please be sent to Govt early with your remarks thereon.

Yrs

CL

28 to Govt

By AFD

WD 03737-GPB—PZS- 50,000—1-8-56.

56 290

No.B3-111-1888/56 Chief Conservator's Office
End Three Bangalore, dated 6- 10-60

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

Sir,

66 Sub:- Encroachment of Sandalwood plots in F.S.No.215 of Galgali in Bijapur District.

111 Ref:- Your letter No.AFD 240 DST 57 dated 26-6-1960.

I enclose a copy of letter No.FCP/GFL/894(89)60-61 dated 31-3-60 from the Conservator of Forests, Belgaum Circle, along with its enclosures for perusal. In the circumstances reported therein no further action can be taken and the matter may be closed.

Sri S

Yours faithfully,

Chief Conservator of Forests.

AS/4/10
(3)

MYSORE GOVERNMENT SECRETARIAT
NO. 9138
13 OCT 1960
FOREST BRANCH

5/10

No.FOP/GFL/894(89)-60-61

Office of the
Conservator of Forests,
Belgaum Circle.

Belgaum, August 1960.

To

The Chief Conservator of Forests
in Mysore, Bangalore.

Sir,

Subject:- Encroachment of sandalwood plots in F.Sy.No.215 of Galgali in Bijapur District.

Reference:- Your No.B3-111-1888/56 of 21.5.1960 and subsequent expeditor dated 18.7.1960

In enclosing herewith a copy of the Sub-Divisional Forest Officer, Bagalkot's No.FOP/GFL-8 of 3.8.1960 along with a copy of "Summary No.55 and A Final dated 16.3.1960" I have to report that the case was entrusted to the Police Department in view of Government letter No.AFD-240-DST-57 dated 23.11.1957- copy received under your No.B3-111-1888 56 of 10.12.1957 as opined by the Government Pleader since the case built up by this Department was not enough to fix up the offences. Even in the investigation by the Police Department there were no sufficient evidences to send up charge sheet and hence the case was reported for 'A Summary and A Final'. In the circumstances no further action in the matter is necessary and can be taken.

Yours faithfully,

D. Manjunathappa 31/8

SRJ.29.8.

Conservator of Forests, B.C.

292

To

The Conservator of Forests,
Belgaum Circle, Belgaum.

No. FOP/GFL/8 of 1960- 1961 Bagalkot, 3-8-1960.

Sir, Subject:-Encroachment of sandalwood plots in F.Sy. No.215 of Galgali in Bijapur District.
Reference:- Your No.FOP/GFL/894/89/60-61 dated 11/14-5-1960 25/28-5-60 and 21-7-1960

In enclosing herewith copies of "A" summary No 55 and A Final dated 16-3-1960 in triplicate on the subject cited above I submit my remarks as under:-

As opined by the Government pleader that the offences committed were punishable both under the I.F.Act and under section 447 and 379 of the Indian penal code the case was entrusted to the police to collect evidence and to establish prima facie case against the offenders.

As there were no sufficent evidences to send up Chargo sheet against the accused the case was reported by the Police for "A Summary and A Final" and accordingly "A Summary" was issued from the Judicial Magistrate First Class Bagalkot.

As many years have passed since commission of the offence and no sufficent evidences to establish prima facie case against offenders the case is not fit for prosecution and the matter may please be brought to close.

Yours faithfully
3/8/60
(K.S.Wodeyar)
Sub-Divisional Forest Officer.
Bagalkot.

59 293

Appendix E.

Summarry of Magistrates Final Orders.

1)Police Station:- Bilgi.

2)No. of case as entered in subInspector's Register. CR.No.50/59

3)Complainant's Name:- Shri M.H. Dundur. P.O.Bilgi.

4)Magistrates Case NO.:-Nill

5)Serial No of summary:- 55/60

---

1)Is the case cognizable or N on-cognizable? If non-cognizable the remaining portion of the form need not be filledxin up.	Cognizab
2)Section of the penal code or other enactment covering the case.	447 379 I.P.C.
3)To which of the following three classes does the complaint belong? viz.(a)true (b)malievously false (c)not true and not malieiously false.	"A" Undetected.
4)Was the case investigated by the police of takenup and disposed of by the Magistrate directed?	by police.
5) NO. of accused:-	Suspects.

1)R.M.Desai.
2)R.V.Patil.
3)L.D.Gunjal of Yadhalli.
4) M.V.Nyamgoudra of Yadhalli.

6)Disposal of accused and section of the C.R.P.C. under which disposed of:-	"A"summmary granted 14-3-60
7)Value of property stolen:-	-
Value of property recommended:-	-

Camp:-Bagalkot
Date:- 16-3-1960.

Sd/ V.L.Narayanraw.
J.M.F.C.Bagalkot.

True copy.

Sub-DivisionalForest Officer,
Bagalkot.

GO 295

Appendix F. G.—1]

SUBJECT Encroachment of Sandalwood plots in F.S. No 215 of Galgali in Bijapur District

Diary No. of letter replied to .....

Section
File No. AFD 240
Serial No. DST 57

Mysore Government Secretariat.

( )

the 195 .

No.

To

Date of issue 1-12-60

Signed by .....

The CCF

Sir

I with refce to the correspondence ending with your letter No B3-111-1888/56 dt 6-10-60 on the subject noted above, I am directed to request you to furnish information on the following:

List of enclosures a)

Copied by .....

Examined by .....

1) Whether orders issued by the Erstwhile Bombay Govt in their No FD 1453/43841 E dt 6-7-55 regarding release of resumed lands have been given effect to?

2) Whether the encroache

P.T.O.

on Sandalwood plots in Bilgi petah (6)
have been evicted?

An early reply is requested.

y/7

29/62

Appendix F. G.—1]

SUBJECT Encroachment of sandalwood plot in F S No 2/5 of Galgali in Raichur Dt

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 15 OCT 1962 *195* .

Date of issue 15 OCT 1962

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. AFD 240 DST 57 15 OCT 1962

To The CCF

Sir

Sub: xv

I am directed to invite reference to Govt letter of even no. dt 1.12.60 and to your letter No B3-111-1888/57 dt 26/10/60 and to request you to expedite your report on the points raised in Govt letter.

Yr

JSR

US to Govt

RSR AFD

EB/10

WD office GPH P/S 50-gsm 15-60

299 63

No.B3-111-18[illegible] 56 CHIEF CONSERVATOR'S OFFICE,
Bangalore, dated 16 Nov. 1962.

MYSORE GOVERNMENT SECRETARIAT NO. 9240. 19 NOV 1962 FOREST BRANCH

To

The Secretary to Government,
Agriculture and Forest Department,
B a n g a l o r e.

MYSORE GOVT. SECRETARIAT No. 22 Dir, 17 NOV 1962 AGRL. & FOREST DEPT. (TAPPAL SECTION)

Sub:- Encroachment of sandalwood plots in F.S. No.215 of Galgali in Bijapur District.

Ref:- Your letter No. AFD 240 DST 57 dated 15.10.62.

.....

The report called for in your letter No. AFD 240 DST 57 dated 1-12-1960 has already been submitted to Government under this office letter of even No. dated 31-3-1962.

17/11/62

2669 4/3/62

Yours faithfully,

Sri C

CHIEF CONSERVATOR OF FORESTS.

DVI.

M. G. S. App. F VI—G. 2]

301/64

SUBJECT Encroachment of Sandalwood Plot in Fs No. 215 Yalgali in Bayapur Dt.

Diary No. of letter replied to.....

Section

Serial No.

File No. AFD 240-DSTS/

Mysore Government Secretariat

( )

the 16 1963

Proceedings of the Government of Mysore 16 JAN 1963

Date of issue 16 JAN 1963 196

To

Read— The CCF

Sir

Signed by.....

Sub:- KV

Refer your letter No B3-111-1888/56 dt. 16.11.62

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Order thereon.—No.

The letter No B3-111-1888/56 dt 31.3.62 said to have been sent to you has not been received here. I am therefore to request you to send a copy of it for ready reference.

Yours faithfully,

[illegible]

for Secretary to Govt

Agriculture

GS 303

OFFICE OF THE CHIEF CONSERVATOR
OF FORESTS IN MYSORE BANGALORE.

No.B3-111-1888/56
Encl Three.

Dated 11 February 1963.

To

The Secretary to Government,
Agriculture & Forest Department,
Bangalore.

Sir,

Subject:--Encroachment of Sandalwood Plots in F.S.No. 215 of Galgali in Bijapur District.

Reference:--Your letter No. AFD 240 DST 57 dated 16-1-1963.

A copy of this office letter No. B3-111-1888/56 dated 31-3-1962 along with its accompaniments, is enclosed as required.

Yours faithfully,

CHIEF CONSERVATOR OF FORESTS.

305
66

Copy of the letter No. B3-111-1888/56 dated 31-3-1962, from the Chief Conservator of Forests, to the Secretary to Government Agri. & Forest Deptt.

Sub:-Encroachment of sandalwood plots in F.S.No.215 of Galgali in Bijapur District.

Ref:-Your letter No.AFD 240 DST 57 dt.1-1-1960.

I enclose a copy of letter No.FOP/GFL/894/89/60-61 dated 6-3-1962 from the Conservator of Forests,Belgaum Circle,along with its accompaniment on the above subject furnishing his report on the points raised by Government under reference.

I have no further remarks to offer.

/ C O P Y /

Chief Conservator of Forest.

kcs/

30

Copy of the letter No. FOP/GFL/894/60-61, dated 4/6-3-62, from the Conservator of Forests,B.C., to the Chief Conservator of Forests Bangalore.

Subject:-- Encreachment of Sandal Wood Plots in F.S. No. 215 of Galgali in Bijapur Dist.

Reference:--Your No.B3-111-1888/56 of 13-12-60 and D.O.No.B3-111-1888/56 of 17-1-1962.

The information required by the Government under their No. AFD 240 FST 57 dated 1st December 1960 is as furnished below:-

a) The area in question has been released to the Harijans for cultivations as per Bombay Govt. letter No.FLD/1453/43841/E of 6-7-1955 (copy enclosed).

b) The encroachers on Sandalwood plots of Galgali Sy. No. 215 of Bilgi Petha have been evicted.

As regards the disposal of the ~~area~~ area permanently after disofrestment, necessary action is taken separately by the Revenue authorities to send the requisite draft notifications disforesting the area for publication in the Government Gazette.

/ copy/

By order and in the name of the Governor of Bombay.

sd/-
Assistant Secretary to the Govt. of Bombay,
A & F.D.

Copies to:-

The Chief Conservator of Forests.

No. 17/D/SG/5934 of 55/56
Poona No.1 21 July 1955.

Copy forwarded with compliments to the Conservator of Forests, Southern Circle, Belgaum with reference to this office No.17/D/SG/2128 dated 13-5-1956.

sd/-
For Chief Conservator of Forests.

---

kcs/ /copy/

Copy of the letter No.FLD/1453/43841-E dated 6-7-1955, from the ~~Chief Conservator of Forests~~, to the Collector of Bijapur,

---

Reference correspondence resting with your letter No.FADSR 274 dated the 19th May 1955 regarding resumption of Survey No. 215 of Galagali, Petha Bilgi.

2. Government is pleased to sanction an amount of Rs.416/ for payment of wages for the four watchmen as detailed below employed in connection with the Forest Survey No.215 of Galagali.

i)	Wages of two watchmen from the 23rd October,1954 to 9th Feb. 1956 at Rs.1-8-0 per watchman.	Rs.330/-
ii)	Wages of two more watchmen engaged from 29th December, 1954 to 9th Feb. 1956 at Rs.1-0-0 per watchman per day	Rs. 86/-
	Total	Rs.416/-

3. Govt. is further pleased to direct that the Forest land in question, after its resumption from the lessees should be disposed of to the Harijans in the light of the orders issued in Government Resolution, Revenue Department No.LND 3953-V-B dated the 20th August 1954. The conditions regarding preservation of soil on the banks of the river by planting suitable trees should be included in the agreement.

4. The expenditure on this account should be incurred by the Forest Department and met from the grants sanctioned under the head '10-Forests' during the current year.

P.T.6

Legal Department.

70

The case ~~X cases~~ noted in the margin relates to the Karnatak area which is shortly to be transferred to the State of Mysore. The file ~~X files~~ is/~~are~~, therefore, returned herewith, in view of the orders issued by P.& S.D. in its Circular No.SR/RCR 1456-T, dated the 12th October 1956, in order to enable the Department to transfer the case to the State of Mysore.

Ad FD file no FLD 1453/70305-E with ff re forest cases at Galgali-Bilgi Peta District: Bijapur - resumption of by Govt

Assistant Secretary to Government.

U.R. to A & DEPT.

AGRICULTURE & FOR. DEPT. (7)
Date of Receipt
18 OCT 1956
File No. ...
Serial No. 11765

Department, No. 23915/A
dated the 18th October 1956.

A FD
E

KYK
20.10

May be transferred to Mysore Govt. for further action, with ff.

8K
18/10

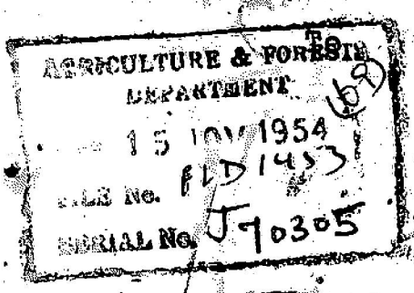
Suptdt. 18/10

No.F.A.D.S.R.-279.

Bijapur, 11th November 1954.

From:-

The Collector of Bijapur.



To

The Secretary to Government,
Agriculture and Forests Dept. Bombay.

Subject:- S.No.215 of Galagali petha Bijapur.
Resumption of ---

Reference:- G.L.Confdl.No.FLD-1453-J dated 29-9-54.

Sir,

In continuation of my report of even No. dated 30-10-54, I have further to state that necessary orders have been issued to the Prant Officer, Jamkhandi Dn., to hold auction sale of the standing crops in S.No.215 of Galagali resumed from the four lessees of the combined cattle breeding and mixed farming project. The sale has been fixed on 12-11-1954.

The lessees must have incurred some expenditure towards sowing etc. of these crops. The question for consideration now is, howfar Govt. is responsible for payment of cultivation charges incurred by the lessees during the current year upto the date of resumption of the lands. The District Govt. Pleader, Bijapur who was consulted in the matter has stated that cultivation charges should be paid to the lessees concerned. I intended to pay the cultivation harges out of the amount realised by the sale of standing crop but on 8-11-1954 the Registrar, High Court, Bombay sent the following telegram.

" HIGH COURT GRANTS INJUNCTION RESTRAINING YOU (COLLECT) FROM SELLING BY AUCTION OR DISPOSING OR DISTURBING ANY PROPERTY BELONGING TO M.V.PATIL AND OTHERS SITUATE IN SURVE NUMBER 215 OF GALAGALI. WRIT FOLLOWS "

I am informing the Registrar, High Court that possession of the lands in question is taken as per Govt. orders a further steps are held in abeyance. A difficulty has arise since possession of all the lands in question is already taken and watchmen are appointed by Prant Office Jamkhandi , to watch the standing crops. Further

instructions are solicited in ~~the matter~~ this connection.

The Panch ~~valuation~~ valued the cultivated charges of all the lands at Rs.4800/-.

As regards para 2 of Govt.letter under reference, the Prant Officer is asked to remove the encroachment in consultation with the Sub-Divisional Forest Officer,Bagalkot.

O.C.signed
by the Collr.

For Collector,Bijapur.

No. F.A.D.S.R-279
Bijapur, 18-11-1954.

Express.

From

The Collector of Bijapur.

To

AGRICULTURE & FORESTS DEPARTMENT
Date 20 NOV 1954
FILE No. FLD 1453 J
SERIAL No. J 71525

The Secretary to Government
Agriculture and Forests Department, Bombay.

Subject: Resumption of S.No.215 of Galgali Petha Bilgi District Bijapur.
Special Civil Application No.2422 of 1954.

Sir,

In accordance with the instructions contained Government letter Agriculture and Forests Department Confidential No. FLD 1453-J dated 29-9-54, notices were issued to the four lessees of S.No.215 of Galgali -- communicating Government's intention to terminate the lease and possession of the land was taken over on 23-10-54. As there were standing crops of Rabi-Jowar on the land, sales of the crops were fixed on 12-11-54.

In the mean while a telegram was received from the Registrar of High Court Bombay restraining the Collector from selling by auction or disposing of - disturbing any property belonging to Shri M.V.Patil and others situate in S.No.215 of Galgali.

Accordingly the sale of standing crops fixed on 12-11-54 was with held.

Copy of the injunction notice received from the High Court Bombay on 15-11-54 is enclosed for perusal.

In the said notice the Collector has been restmained from selling by auction or otherwise disposing of or disturbing the standing crop or any property belonging to the petitioners and situated in S.No.215 of Galgali pending further orders from the High Court or until final disposal of the special Civil --

application unless cause is shown within a fortnight from the date of service why the Collector should not be so restrained .

The Prant Officer Jamakhandi Dn. reports that the crops in the land resumed need immediate intercultural operations. These operations ~~were~~ are necessary for the further growth of crops. Otherwise the crops are likely to suffer damage.

Moreover, watchmen have been engaged to keep guard over the crops as intimated in my letter of even No. dated 11-11-54 and the cost of this account will go on increasing if the time for selling the crops is prolonged.

In the circumstances, it is desirable to move the High Court (within the prescribed period of a fortnight) for the cancellation of the injunction order to enable me to sell the standing crops by public auction as early as possible, lest the cost for maintaining the watchmen etc. should mount up.

I have already intimated that I intended to pay the cost of cultivation to the evicted lessees and as such there is no ground for the lessees to complain if they are paid the cost of cultivation from the money realised from the sale of the crops. The disposal of the residue will depend on the final decision of the High Court in the Special Civil Application and the interest of the Petitioner will suffer in no way by the cancellation of the injunction order.

The Special Civil application itself has to be opposed on the grounds mentioned in paras 1 and 2 of the note of the R.L.A. sent as an accompaniment to the Government letter No. FLD 1453 -J dated 29-9-1954.

The papers of the case are being obtained from the Prant Officer, Jamakhandi Dn. and will be submitted soon after their receipt.

As the matter is of an urgent nature I am requesting the Government Pleader High Court Bombay to move the High Court for cancellation of the injunction

order.....

75

order in anticipation of Government sanction which may kindly be communicated to him as early as possible.

Yours faithfully,

for Collector, Bijapur.

O.C. Signed by Collr

U/18.11.

Accompaniment
copy of the injunction order

BY REGD.POST A.D.

3738/54
11-11-54.

In the High Court of Judicature, Appellate Side, Bombay.

Special Civil Application No.2422 of 1954.

(Undef Article 226 of Constition of India challenging the order No.F.A.D.S.R 279 dated 9-10-54 of the Collector, Bijapur.

1) Mallangouda Veerangouda Patil Nyamavangoudar agriculturist of Galgali, Petha Bilgi, and three others. — Petitioner Represented by Mr.V.M.Tarkunde Advocate

Versus.

1) The Collector of Bijapur, Bijapur
2) ~~The~~ State of Bombay — OPPONENT

To

1. The Collector of Bijapur.

Greeting:

WHEREAS THE ABOVE-named Petitioner has presented to Us in our High Court of Judicature at Bombay, a petition praying that you the opponents be restrained from selling by auction or otherwise disposing of or disturbing the standing crop or any property belonging to the petitioners and situate in S.No.215 of Galgali in Petha Bilgi of the Bijapur District. pending the decision of the Special Civil Application.

Rule on 15/11/54

AND WHEREAS upon hearing Mr. V.M. Tarkunde, the Advocate of the Petitioner, the Court passes the following order:

Rule and interim injunction in terms of para 7".

It is hereby accordingly ordered that you, your servants and your agents, be and are hereby restrained from selling by auction or otherwise disposing of or disturbing the standing crop or any property belonging to the petitioner and situated in Survey No.215 of Galgali in Petha Bilgi of the Bijapur District pending further orders of this Court or until the final disposal of the said Special Civil application by this Court, unless you show cause, as aforesaid within fortnight from the date of ~~this~~ service hereof, why you, your servants and your ~~xx~~ agents ~~should~~ .....

agents should not be so restrained.

Witness M.C. CHAGLA, Esq., Chief Justice at Bombay aforesaid, this 8th day of November One thousand Nine hundred and Fifty-four.

By the Court,

Sd/ X X
Assistant Registrar.

The 11th day of November 1954.

78

No.FAD.SR-279.
Bijapur,15-11-1954.

From:-

The Collector of Bijapur.

To

The Registrar,High Court,Bombay.

Subject:- S.No.215 of Galagali petha Bilgi.
Resumption of ---

Reference:- Your telegram dated 8-11-1954.

Sir,

The possession of S.No.215 of Galagali has already been taken over from Shri M.V.Patil and others on 23-10-1954 as per Govt.orders. However the sale of the standing crops in the land which was fixed on 12-11-1954 is held up as per your telegram.

Yours faithfully,

For Collector,Bijapur.

AGRICULTURE & FORESTS DEPARTMENT
FILE No. FLD/1457
SERIAL No. F-707776

Copy submitted to Government in Agriculture and Forests Dept.Bombay in continuation of this office even No.dated 11-11-1954.

Immediate: No. 26673/E Legal Department,
Bombay Castle, (Bombay No.1), 24th November '54

To

The Government Pleader,
High Court,
Bombay.

Subject: Sp.C.A. No.2422/54
Mallangouda V.Patil
vs.
Collector of Bijapur.

Sir,

I am directed to forward herewith a copy of the letter from the Collector Bijapur No.FADSR-279, dated the 18th November 1954, together with a copy of the Rule issued against him and to request you to put in appearance and for the reasons stated in the letter to move the Court to vacate the interim injunction granted in these proceedings. I am also to request you to forward copies of the petition to the Collector of Bijapur, the Revenue Department and the Legal Department and obtain a report under rule 71(2) of the Law Officers' Rules from the Collector and file an affidavit on his behalf.

Yours faithfully,

AGRICULTURE & FORESTS DEPARTMENT
Date 26 NOV 1954
FILE No. FLD 1453
SERIAL No. J-12891

for Secretary to Government.

Copy forwarded with compliments to:

The ~~Revenue~~/Agriculture & Forests Department.

The Collector of Bijapur for forwarding his detailed report after obtaining a copy of the petition from the Government Pleader High Court, Bombay. The report may be endorsed to Agriculture and Forests Department and Legal Department.

BD/24.11

State Telegram 80 Express

~~Courtesy~~

To

The Collr. Bijapur

No FLD 1453 Refer GE L.D. No. 26673/E, dated 24th instant. Please submit ~~detailed~~ report atonce

Reg. Spl. Civil appln. No. 2422 Reg. S. No. 215 of Talpati

Secretary

No. FLD 1453 R/72871-J
A + F.D.
B.C. Nov. 1954

~~By order~~

ISSUED ON 29/11/54

Supt. at least shd. know the correct form of telegrams 29/11

29/11/54

A.S. to Govt.

29/11/54

29.11.54

E - 29/11/54

AFD 14/C

Has the Coll of Bijapur sent his report to LD under intimation to us in the High Court in reg. to the reg Spl. Civil Appln, lands at Galgali? If not, pl. expedite him by wire, after informally ascertaining 'A' from LD.

8/12

Supdt

Shri B[illegible] 8/12

A. and F.D.

The report referred to above has not yet been received in L.D. The Collector of Bijapur is being expedited on main pps.

The reports has since been rec'd. Del. not to issue

8/12 A.S. (Shri M)

82

Telegram.

State. Express.

To

Collector
Bijapur

No. FLD. 1453-J. Reference Govt. endst L.D. No. 2667/E of 24th ultimo and subsequent telegram of 29th November reg: special civil applin. No. 2422 reg: S. No. 215 of Galgali (.) Kindly furnish report immediately (.)

SECAGRI

A. S. to Govt.,
A. & F.D.,
8/xii/54.

A. and F. D.,
Secty.,
Bombay, Decr: 54.

IMMEDIATE

No. 10516

11/C 83

Office of the
Government Pleader, High Court,
Bombay, 8th November 1954.

From

Shri H.M.Choksi, B.A.(Hons)LL.B.
Government Pleader, High Court.

To

The Remembrancer of Legal Affairs,
Bombay.

Sub:- Special Civil Application No.2422/54
Mallangouda V.Patil.
Vs.
Collector of Bijapur.

Sir,

With reference to your letter No.26673/E, dated 24th November 1954, on the above subject, I have the honour to send herewith a copy of the above petition and the copy of affidavit received from the Collector of Bijapur for your approval with a request to return the same duly approved by Friday the 10th instant.

This should please be treated as most urgent as the above application is fixed for hearing on Monday the 13th instant and no further adjournment is likely to be obtained in this case.

Yours faithfully,

for Government Pleader, High Court.

AGRICULTURE & FORESTS DEPARTMENT
DATE - 9 NOV 1954
FILE No.
SERIAL No. J-1548

Copy to :-

No. 10517

1) The Secretary to Government, Agriculture and Forest Department, Secretariat Bombay for favour of information and necessary action. The copyn of the petition and the copy of affidavit received from the Collector is attached herewith.

In the High Court of Judicature at Bombay.

Special Civil Application No. 2422 of 1954.

(Under Article 226 of the Constitution of India.)

District :- Bijapur.

1) Mallangouda Veerangouda Patil)
Nyamanvangoudar agriculturiest of)
Galagali, Petha Bilgi, Dist. Bijapur.)
2) Ramangouda Venkatgouda Patil,)
agriculturist of Yedlialli, Petha)
Bilgi, District Bijapur.) Petitioners.
3) Bachappa Mallappa Desai, agricultu-)
rist of Yedlalli, Petha Bilgi.)
District Bijapur.)
4) Lilachand Dipchand Gujar agricul-)
-turist of Yedhalli, Petha Bilgi)
District Bijapur.)

Versus

1. The Collector of Bijapur, Bijapur.) Opponents.
2. State of Bombay.)

Claim Rs. 200/- for Process fees.

The Humble Petition Of The
Petitioners Abovenamed.,

Most Respectfully Showeth :-

1) That since 1942 the Petitioners have been conducting an agricultural project known as "+Combinded Cattle Breeding and Mixed Farming Project" on a Government Waste land being Survey Number 215 measuring about 100 acres situate on the Bank of the Krishna River

21/C 85

in the villege Galgali in Bilgi Petha of the Bijapur District. In pursuance of a scheme announced by Government Order No. G.R.R.D.No. 6057/39-I, dated the 3rd December 1941, the then Government of Bombay had leased out the said land to the petitioners for a period of 15 years from 22-4-1942 for the express purpose of the said project subject to certain conditions embodied in the deeds of lease executed on 22-4-1942 by the Petitioners individually and jointly in favour of the then Collector of Bijapur . As the original deeds of lease are in the possession of the Opponents. The Petitioners are annexing hereto as Annesture A a true copy of the deed of lease executed by each one of the Petitioners on 22-4-1942.

(II) That for a period of 11 years since 1942 the Petitioners were conducting the said project subject to the supervision and supritendence of Government carrying out all the conditions and rules laid down by Government from time to time Officers of Government were visiting and perscnally inspecting the said project and the Petitioners were submitting periodical reports to the appropriate officers of the Government. Not on one occasion during the peri od of 11 years the Government found any fault with the Project or complained of breach of any of the conditions in Annexture A by the Petitioners- But in 1952 one C.J.Amboli a Congress M.L.A. from the Bilgi Constituency made represtations to the Opponents and to the Hon'ble Minister concerned complaining that the lease to the petitioners should be resumed on the ground that the same was made by the predecessor Government and it was improper that the Congress Government should continue the same. As a result Opponent No. 1 visited the farm on 27-5-1953 and personally inspected the same. Thereafter the Local Circle

23/C 86

The Local Circle Officer recoreded statements of the Petitioners. Before recording the said statements or any time thereafter neither the Opponents nor any of their servants informed the Petitioners that they had committed any particular breach of any of the conditions in the lease at Annexture "A". As the Petitioners had reasons to believe that the aforesaid C.J.Ambali was persisting in his efforts and that the Opponents were likely to resume the lands on some or other protext. The Petitioners made on 8-7-53 a detailed representations to the Hon'ble Minister for Revenue and Forests, Government of Bombay describing all the conditions of the lease were being carried out by the Petitioners. A true copy of the said representation is annexed hereto and marked Annexture "B".

(III) That a year thereafter on 19-10-1954 the Petitioners were surprised to receive orders dated 13-10-1954 issued by Opponent No. 1 terminating with immediate effect the leases executed by the Petitioners on 22-4-1942 on the allegation that the Petitioners had committed breach of conditions No. 15 in Annexture A relating to planting of 'Lakki' plants on the bank of the river. A true copy of the said order of resumption bearing No. F.A.D.S.R. 279, dated 13-10-1954 served on each one of the petitioners is annexed hereto and marked Annexture "C". Along with the said orders at Annexture C the petitioners were served with notices issued by the Mahalkari of Bilgi directing the Petitioners to deliver possession of the land to the Officers of the Bilgi Circle on 28-10-1954 failing which possession would be taken ex-parte in the presence of Panchas. As the Petitioners immediately rushed to Bombay for the purpose of obtaining a stay order before 28-10-1954, the

servants of Opponents visited the land on 23-10-1954. and took possession thereof along with standing crop in the absence of the Petitioners.

(IV) That the Petitioners say that the unilateral acts of the Opponents and their servants in resuming the lands for an alleged breach of one of the several conditions of the lease and of taking possession thereof with indecent haste on a date ~~xx~~ earlier than the one notified by the Mahalkari of Bilgi, are mala fide, besides being high-handed and illegal. In fact since the commencement of the lease the Petitioners have beein planting fromtime to time 'Lakki' plants on the bank of the ~~xxix~~ river and catiling silt and preventing washings by the floods. Even at the time when the orders at Annexture 'C' were passed and prior to that 'Lakki' plants planted by the petitioners were standing on the land. Before the passing of the orders at Annexture 'C' the petitioners were never told by the Opponents or their servants that they had committed breach of condition No. 15. Even at the time of recording their statements in May 1953, the Petitioners attenstion was not directed towards the alleged breach of condition No. 15. But questions were put relating to alleged encroachment of Govenmment land by the Petitioners and their alleged failure to enter into security-bonds as required by condition No. 10 and to construction of sheds on the land. The petitioners say that the Opponents and their servants had been conducting a fishing inquiry with the sole intention of resuming the lands on come pretext or the other and ultimately resumed the same on a false pretext. Assuming 'Lakki' were not planted by the Petitioners. They could ~~not~~ have been given an opportunity to plant the same and there was not such urgency or imminent danger of a flood that

2716 88

the lands should have been resumed without prior notice and their possession should have been taken with indecent haste. The Petitioners humbly submit that the action of the Opponents and their servants besides being bad on facts and for want of bona-fides is illegal. There was no justification in law for the Opponents and their servants to take law in their own hands, to resume the lands and take their possession unilaterally with the aid of the coercive machinery of Government without resorting to the legal channels.

(V) The Petitioners therefore approach this Hon'ble Court under Article 226 of the constitution of India for thereliefs set out hereinbelow on the following grounds among others namely that :-

(1) The orders at Annexture C are illegal, ultra - vires and beyond the legal powers of the Opponents.

(2) The relationship between the Government and the Petitioners under the lease-deed at Annexture A is that of a landlord and tenants.

(3) The Opponents and their servants had no power to pass an order of resumption, to terminate the lease unilaterally and to take possession of the lands with the aid o f the coercive machinery of the Government.

(4) The Opponents and their servants exceeded their ~~had exceeded their power to pass an order of resumption,~~ - public duty in taking law in their own hands and using the Government machinery for resuming the land without resorting to a Court of law.

(5) It was highly unjust to resume the lands without prior notice to the Petitioners and without giving them an opportunity to meet the allegations made against them.

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(6) The actions of the Opponents and their servants are bad in law for want of bona-fides on their part.

(7) The allegation made against the Petitioners in Annexture C' are baseless and unwarranted.

(VI) It is therefore, prayed that :-

(a) The record and proceedings relating to the case be called for from the Opponents.

(b) The orders at Annexture 'C' be quashed by an appropriate writ or order ,

(c) The Opponents be directed by an appropri-ate Writ or order to restore possession of lands bearing S.No. 215 situate at Galgalli in Bilgi Petha District Bijapur to the petitioners and

(d) such other order or orders be passed as may be deemed fit in the circumstances of the case.

(VII) The Petitioners further say that there is valuable standing crop of Jawar, Maize, beans etc. grown by the Petitioners on the land and the cost of cultivation incurred by the Petitioners as estimated by Government itself is Rs. 150/- per four acres. The Government is likely to sell by auction or otherwise dispose of the said standing crop and other property of the Petitioners situate in the land. It is therefore prayed that pending the disposal of this Petition the Opponents be restrained from selling by auction or otherwise disposing of or disturbing the standing crop or any property belonging to the petitioners and situate in Survey Number 215 of Galgalli in Petha Bilgi of the Bijapur District.

3(1)C 90

And for this act of justice and kind-ness Your Lordships' petitioners as in duty bound shall ever pray.

High Court,
Bombay
1st November, 1954.

Sd/- V.M.Tarkunde.
Advocate for the Petitioners.

I,
the Petitioner do hereby state on solen affirmation that what is stated in the abovesaid petition is explained to me and I state that it is true and in witness whereof I have signed the same today at Bombay dated this 1st day of November 1954.

I have explained the contents of this petition to the deponent in vernacular.

Advocate, High Court,
1-11-1954.

I know the deponent.

Clerk to Mr. V.M.Tarkunde
Advocate, High Court,
1-11-1954.

91 33/C

Annexture "A"

Accompaniments to G.R.R.D.No. 6057/39-I of 3-12-1941.

Form of lease of land granted for the "Combined Cattle Breeding and Mixed Farming Project " to be executed by the Lessees separately.

To

This is to certify that Mr. of Taluka District (hereinafter called "the lessee") has, subject to the provisions of the Bombay Land Revenue Code, 1879 (Bom.V of 1879) and the rules made there under, and subject to the conditions hereinafter specified, been allowed by the Governor of Bombay (hereinafter referred to as "Government ") to occupy for the purposes of "The Combined Cattle Breeding and Mixed Farming Project " for a period of 15 years, commecing from day of 194 (hereinafter called "the said term") a plot of land situated in the village of Galgali Petha Bilgi, district Bijapur, measuring about 25 acres and more particularly described in the schedule hereunder (hereinafter referred to as the said plot):-

(1) The lessee shall not claim any right to the trees now existing or growing hereafter in the said plot but shall maintain the trees in good condition and shall not cause any loss, damage or injury to them.

(2) The said plot shall be handed over back by the lessees to the Government on the date of expiry of the said term in the same good condition in which it was at the time of leasing the said plot, ordinary wear and tear excepted.

(3) The lessee shall within three months of his taking possession of the said plot buy at his own expense not less than six khillari cows approved by

the Livestock Expert to Government B.P.(hereinafter re-
-ferred to as the livestock Expert) and shall make
every attempt to increase their number.

(4) / A Khillari bull will be supplied by the Livestock Expert on premium Bull System, i.e. either at 1/2 cost and no maintenance or if the lessee pays full cost of the bull, with maintenance at Rs. 7 per mensem.

(5) The lessee shall maintain the cows and their progeny in good condition and follow the instructions of the Livestock Expert in regard to his breeding policy.

(6) The lessee shall stock such quantity of hay and proper such amount of silage as is determined by the Livestock Expert on the grazing area leased to him jointly along with other lessees by Government for the purpose under the project aforesaid, in order to supplement the grazing available there. During the non-monsoon months when the 'Kuran' area is accessible the herds shall be removed to the area leased hereunder and shall be maintained there. The manure shall be stored on the said plot and applied to the cultivable area in the plot.

(7) The lessee shall maintain all the young stock until it is fit for breeding. Thereafter the lessee may dis-
-posed of the young stock with the sanction of the Live-
-stock Expert, the first preference being always given to the nominees of the Wilson Anti-Famine Institute, Bijapur.

(8) The lessee shall see that the Khillari cows and their female progeny are served only by the bull supplied by the Livestock Expert as hereinbefore described.

(9) The lessee shall maintain a proper record of the service and breeding in respect of his herd.

(10) The lessee shall execute a bond for Rupees five hundred (Rs.500/-) and shall procure a surety for the like amount for the proper observance of the terms and conditions of this lease and of the lease of land at Yadahalli leased jointly to him for the purpose of the

3)C 93

combined Cattle Breeding and Mixed Farming Project. so far as they are applicable to him, and in the event of his not observing all the terms and conditions of this lease and of the joint lease referred to above, the full amount of the bond or such part thereof as the Collector may determine shall be forfeited to the Government and the said plot shall be resumed by the Government ~~xxxxxx~~ without any compensation.

(11) The lessee shall allow inspection of the said plot, the sheds constructed thereon and the cattle and also of therecords maintained by him, by the officers of gazetted rank of the Agricultu-ral, Veterinary, and Revenue Departments of the Government of Bombay.

(12) The lessee shall immediately make a report to the Mahalkari of Bilgi or to the Collector of Bijapur about the outbreak of any disease among the cattle and shall also arrange for their treatment or removal or disposal according to the instructions received by him either from the aforesaid officers or from the veterinary Department of the Government of Bombay.

(13) The lessee shall pay in respect of the said plot a yearly rent equal to the amount of assessment payable for it; such rent shall ~~xxxxxxxx~~ be paid on the dates fixed for the payment of land revenue in the village.

(14) The lessee shall carry out the cropping scheme drawn up from time to time by the Director of Agriculture, Bombay Province, in respect of the said plot.

(15) The lessee shall endeavour his utmost to catch silt in the area given to him along the river and also in the hollows of the flooded area by planting "Lakki" and shall thus stop washings

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by the floods of the river.

(16) For the purposes of affording shelter to the cows and their progeny the lessee shall construct on the said plot at his own expense a kachha shed (with a suitable compound or enclosure) of the type approved by the Livestock Expert on the site selected for the purposes

(17) If the lessee who is also a lessee under the joint lease in respect of a plot of land at Yadahalli in connection with the Combined Cattle Breeding and mixed Farming Project ceases to be a lessee of the land at Yadahalli he shall immediately be deemed to have resigned his rights hereunder without any compensation.

In this lease the words "lessee" shall include the lessee, his heirs, successors, legal representatives and permitted assignees.

Schedule above referred to

The plot of land situated in the village of Galgali, Petha Bilgi, district Bijapur, bounded on the

north by. on the
south by. on the
west by. on the
east by. on the

bearing survey No. and measuring about 25 acres and of the following shape and of the following dimension :

This lease is executed on behalf of the Governor of Bombay by the Collector of Bijapur District and under his seal of office this. day of one thousand nine hundred and forty.

signed.

(Seal) Collector of Bijapur.

I, Mr.
the aforesaid lessee do hereby accept this lease on the terms and conditions herein mentioned.

signed by

Lessee

in the presence of
1)
2)

.....

41/C 95

Annexture "B"

Subject : Combined Cattle Breeding and mixed farming project at village Yadahalli, Pathe Bilgi.

To

Hon'ble Minister.
Revenue and Forests,
Government of Bombay,
Bombay.

Respected Sir,

We the undersigned four members of above cattle, breeding farm B.V.Patil of Yadahalli (2) M.V.Nyamageoud of Galgali (3) B.M.Desai of Yadahalli, (4) L.D.Gujjar of Yadahalli, most respectfully and humbly lay the following request for your kind consideration.

First we will give a short story of our Project:

This said Farm project was started in 1942, Govt selected the present four members to maintain the required Livestock and laid down certain rules and conditions to be followed by the four members. The laid down certain rules and conditions to be followed by the four members. The laid down rules are as per G.R.R.D.No. 6051/39-I of 3-12-1941. 100 acres of Kuran land that is S.No. 215 of Galagali and 200 acres of grazing area in Reserved forest area S.No.226 of Yadahalli were allotted for the said farm animals. The four members purchased the livestock with the direction and advice of livestock department at their own individual expense. It was started from 1942 right earnest. The aims and objects of opening such Farm was to give a sort of idea as to the cultivatops to have an importance of this bardy breed of Khillari animals. Khillari animals are found to be more economical for an average farmer who is almost troubled with the incessment requiring femeines in our district. To open such a farm of Khillari pure breed on our side that is where we have mainly Krishna valley type of heavy animals for our diaft purposes and

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which are rather heavy animals for maintainance also, was to give use pure breed of this hardy variety of animals for our draft purposes. So just as an aid ~~af~~ to the fermar in our district. Government thought of opening such a Farm and selecting the good dite for ~~grazing~~ grazing and river side Kuran area etc., Government then selected our place for such a Farm and started it entrusting the work to us as four partners.

After selecting these present four partners Govt. then getting fulfilled the pre-requisite conditions gave the possession of the above said lands and we also purchased the livestock with the advice of Livestock department and started it and having been taking active interest till now that is for nearly eleven years. The above said lands were given on lease to ~~max~~ use by Govt. for a period of fifteen years that is from 1942 to 1957. We have been adhering to the rules and conditions laid down to us and maintaining the livestock in proper condition and submitting our Annual reports etc., to livestock department concerned and having been taking necessary assistance and guidance from time to time from Livestock Dept. In the Kuran area that is S.No. 215 of Galgalli we were asked to make equal four divisions and cultivated them for fodder purposes and we have done so and accordingly we have submitting our annual reports to Livestock Dept. of what we have grass there.

These eleven years we have been carrying on the work of the Farm with utmost care and precaution for Livestock. Now some people who are interested or we do not know for what reasons have made some allegations against us regarding this Farm that we have done Breach of Conditions laid down to us. Such allegations were being made so far by many people and we were almost every year submitting our statements and finding no fault with out working s the concerned offices used to drop the

matters. Now for these recent allegations our collecter visited our Farm in May 1953, and excepting the third members that the Shri B.M.Desai we three members were present. We have submitted our statement then as regards the conditions and so . On 1st of June or so that third member that is Shri B.M.Desai returned and he have in writing to Prant Officer to give him an opportunity to submit his statement regarding the work he had done for furtherance of Farm work. The necessary papers of dtails about farm were with Shri Desai. So, as per his ~~xxxxxxxx~~ requesting letter d/- the 3rd June 1953, Prant Officer asked Shri Desai to give the statement before him within 12 June. As per that instruction Shri Desai submitted his statement to the Prant Officer on 10th June 1953. The copy of the said statement we herewith attached for your perusal.

Now we have been charged of having made breach of conditions in the working of Farm, by the Collector The copy of the conditions by which the copy of the conditions by which we have to work we have herewith attached for your reference.

Now as per those conditions we wish to show here that we have not done any thing detrimental to Govt. interest or the conditions laid out. As per No. 1 conditions :- We have been careful to preserve the existing threes etc. in the area given to us in Kuran area. We have not done anything damaging to the trees there on so far which is visible on site itself. As for condition No. 2 :- We are ready to abide by it readily. Here only we wish to state that Govt should please consider our request to allow us to fulfill that lease period of fiteen years. As for condition No.3 :- We have all purchased the Livestock then paying individually and as being then advised by Livestock Dept. As per condition No. 4 :- We have in-

-dependently maintaining breeding bulls and

for these Khillar Farm cows and so far we have not even claimed the maintainance charges at Rs. 7/- p.m. which Govt. is entitled to give us. Neither we have been asked by Govt. in this respect whether we were ready to accept that monthly maintainence charges when we have paid for the bulls.

As per condition No. 5:- We have so far taken utmost care to maintain the prgeny of the cows in the manner being directed by Livestock dept. We have been advised in this respect by Livestock department and we have followed their advice strictly.

As per condition No. 6:- We have been following the cropping scheme laid down to us by Shri Khole Livestock Expert, together with the then Mahalkari of Bilgi one Shri V.L.Kulkarni it seems in 1942. Then as per their advice we have been annualy submitting our crop reports to them of what we have been annually submitting our crop reports to them of what we have grown there and so far we have not received any mistakes found therein by them. The copies of the said annual reports we have been submitting to the District Magistrate of Bijapur and Divisional Inspector of Cattle Breeding S.D. Dharwar. We do erect the sheds in nonmonsoon seasons on the respective plots and remove the livestock by middle of May as sporadic rains set in and it will be inconvenient for us. No third members Shri Desai has his own S.No. just adjacent to his S.No. 215 of Galgali and he maintains his livestock just in his area with Kachha shed in non-monsoon seasons for convenience of shade of good trees. This he has been doing since the beginning of farm and Livestock Dept.. Officers who have so far visited and seen the livestock being reared in his area just adjacent to this S.No.215 of Galagali and he maintains his livestock just in his area with Katcha

4916 99

shed in non-monsoon seasons for convenience of sheds of good trees. This he has been doing since the beginnings of farm and livestock department officers who have so far visit and seen the Livestock being reared in his area just adjacent to this Sy.No. 215 of Galgali have raised no objections and it is for pure fact of having good shade there for animals that he has been adopting this method. The measure is being collected on site is being used for the cultivable area there only.

As for condition No. 7:- We have so far maintained the young livestock uptil it is fit for breeding and thereafter we have disposed of the animals with advice and directions of livestock depaitment.

No.8 Condition:- This is also being done strictly adhered t

No.8 Condition:- This is also being done correctly and as being shown by Livestock Department.

As per condition No. 10:- We have been asked as to whether we have executed the necessary bonds. We would like to say in this matter that we have been executed the necessary pre-requisite conditions of the Govt. and then taken the possession of the lands. Moreover the fact that we have been handed over the possession of Govt. lands for Farm proposes means that the necessary pre-requisite conditions have been got fulfilled by the then the pre-requisite conditions being taking possession of lands for Farm purposes. So now after eleven years this question should not arise at all. If at all it is being scrutinised than the necessary papers should be seen in the reppective Revenue Offices and seen therein. Once again we would like to state that we have given the required prerequisite conditions fulfilled before taking possession.

Condition No. 11:- That we have kept open till today.

Condition No. 12:- We have taken the required care of animals and also intimated immediately in case of any epidemics.

condition No. 13:- We have so far paid no soon we were asked the assessment. We have been paying since 1952. In this like to draw your kind attention to the fact that the said S.No. 215 of Galgali has been very lately assessed and that is only last year and we were asked to pay theremaining previous year's assessment. In this connection we would like to draw your kind attention to the fact that the said Sy.No.215 of Galgali has been very lately assessed and that is only last year and we were asked to pay it out and we have done so immediately. Now also we are ready to pay the remaining previous year's assessment also if asked for the and in the same instance we should like to point out one more thing that the said s.no. is being assessed at III acres and 12 gunthas if we are not misteken. The land is assessed at Rs. 113-1-0. Now to show this point, herein is to say that we have been charges with having encroached upon adjoining Govt. Reserved Forests area while as we are entitled to only 100 acres. First when we were given the possession of land we were shown the present bounderies only and we would like to know as to what the remaining area out of this S.No. 215 of Galgali after giving to us 100 acres, remains in Govt. possession. Asking this is to show that we had not been told that except the area of 6 acres or so where in there are sandle-wood trees we were asked to cultivate the land in equal four parts. Even then we would like to state that we have left nearl 10 acres or so on river side of our lands fallow as it cannot be cultivated at all. We were under the impression that the area given to us is only 100 acres. Then so far means for nearly eleven years the concerned Forest Department officers who have visited this area have never taken

53/401

any objection that we have encroached upon adjoining Govt. land. We also though that we were in our limits. Then looking to the Record of rights copy also we have been assessed at 111 acres and 100 acres. That also we paid for two years so far. So that we have done Even if the area is in excess to 100 acres that is purely more, we would like to state that before just starting this Farm Govt. used to auction every year this said S.No. 215 for cultivation and then also the same boundaries were being permitted and some of the us from these four partners were among those who had taken such auctions then. So looking to these facts we have been doing this cultivation with good faith and no with deliberate intention of encroaching upon Govt. lands. We have herewith attached copy of R.R.R. for your perusal. As per condition No.14:- We have adhered to cropping scheme chalked our by Livestock Department.

As per condition No. 16:- We have been dong this sort of shelter on site for cows which have been seen livestock department people so far and who have approved of that type of shed.

As per No. 15:- We have endeavoured to catch shilt on river bank. We have planted fows of Lakki etc. Catch Shilt on riverbank.

As per condition No. 17:- we will follow that also.

Having seen all these conditions which we have now laid before your Honour we hope that we have not done any breach of conditions herein. If Govt. wishes to get verified our work regarding Livestock maintenance, etc. the Livestock Expert to Govet. Office should be asked to send their remarks on the said Farm. Out Dist. Agricultural Office also might be in a position to enlighten in the matter.

SSfc 102

So we earnestly request your Honour to consider our case sympathetically and allow us to fulfill our lease period of fiteen years that is up to 1957 regarding this project.

For the act of which duty bound we remain your Honour.

Ever yours Faithfully,

Sd/- R.V.Patil
Sd/- M.V.Nyamagaudar.
B.M.Desai.
L.P.Gujjar.

Yedahalli.
8-7-1953.

For matter correspondence convenience future correspondence should be made with member Shri B.M.Desai of Yedahalli District-Bijapur, P.O. Galgali and village Yedahalli.

'True Copy'

S7|C 103

Annexture "C"

No. F.A.D.S.R.279.
Bijapur, 9th October 1954.

To

1. Shri B.M.Desai of Yadhalli.
2. Shri B.V.Patil of Yadhalli
3. Shri M.V.Patil of Galgalli.
4. Shri L.D.Gujjar of Yadhalli.

Whereas under Government Order G.R.R.D.NO.6057/39-I dated 3-12-1941 a plot of land measuring about 25 Acres. out of S.No. 215 of the village Galgalli of the disbription mentioned in the Schedule below has been given to you for the purposes of the combined cattle breeding and mixed farming project on the terms and conditions mentioned in the agreement executed by you on 22-4-1942 ;

And wehreas it is noticed that you have committed a breach of the condition No. 15 of the conditions mmentioned in the agreement executed by you, in not endeavouring your utmost to catch silt in the area leased to you along the river and also in the hallowns of the flooded area by planing 'Lakki' and have not thus stopped washing by the floods of the river.

Now, therefore, as provided in condition No 10 of the conditions mentioned in the said agreement you are hereby informed that Government has decided to terminate with immediate effect, the lease execut--ed by you and reaume the land on the ground that you have committed a breach of condition No. 15 of the said Agreement.

S c h e d u l e

(1) A plot of land of 15 acres situated in the village of Galgalli petha Bilgi Dist. +Bijapur bounded on the North by Krishna river. South by way to Gulbal. West by S.No. 214, East by S.No. 215/2 bearing S.No. 215/a of Galgalli.

(2) A plot of land situated in the village Galgalli

Petha Bilgi Dist. Bijapur bounded on the :-
North by Krishna River. South by way to Gulbal
West by S.No. 215/1 and East by S.No. 215/3
Bearing S.No. 215/2 and measuring about 25 Acres.

(3) A plot of land situated in the village of Galgali, Petha Bilgi, District Bijapur bounded on the :-
North by Krishna River. Souath by way to Gulbal
West by S.No. 215/3 and East by S.No. 216/1,
bearing S.No. 215/4, and measuring about 25 acres.

(4) A plot of land situated in the village Galgali
Petha Bilgi, District Bijapur bounded by the
North by Krishna River, South by way to Gulbal.
West by S.No. 215/2 and East by S.No. 215/4.
Bearing S.No. 216/3 and maasuring about 25 acres.

Sd/- (In English)
Collector of Bijapur.

.....

61/C 205

IN THE HIGH COURT OF JUDICIATURE OF BOMBAY

Special Civil Application No.2422/54
under Article 226 of the Constitution of India.

1)	Mallangouda Veerangouda Patil Nayamavengoudar Agriculturist of Galagali, petha Bilgi, district Bijapur.	Petitioners
2)	Ramanagouda Venkatgouda Patil, agriculturist of Yedhalli, petha Bilgi, District Bijapur.	
3)	Rachappa Mallappa Desai, Agricul-turist of Yedhalli, petha Bilgi District Bijapur.	
4)	Lilachand Dipchand Gujar agricul-turist of Yedhalli, petha Bilgi District Bijapur.	

Versus

1)	The Collector of Bijapur, Bijapur	Opponents.
2)	State of Bombay.	

AFFIDAVIT

I, Rama Sanoo Naik, age 51, Government service being Personal Assistant to the Collector of Bijapur do hereby on solemn affirmation state as under:-

1. That I have perused the copy of the above application filed by the petitioners above named and in reply thereto beg to state as under:

1). With regard to para 1 of the petition, I state as follows:

Government passed a resolution Revenue Department No.6057/39-I of 3-12-41 to the effect that S.No. 215 of Galagali should be utilised for establishing combined cattle breeding and mixed farming project. The Government directed there-under that a plot of 25 acres out of the cultivable area of about 100 acres in the said land be granted to each of the four peti-tioners on separate leases for 15 years in the first instance. The Government also directed that the Colle-ctor of Bijapur be requested to ask the cultivators to execute the leases in the forms appended to the

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Government Resolution in question. Accordingly S.No. 215/4, 215/2, 215/1 and 215/3 each measuring about 25 acres were let to the petitioners Nos. 4, 2, 1 and 3-4 respectively and they executed on 22-4-42 separate leases. Annexure A to the petition is a copy of the lease deed executed separately in respect of plot taken on lease by each of the petitioners. The leases were subject to the conditions embodied in the deeds of lease. The allegation in para 1 of the petition that the deeds of lease were executed by the petitioners individually and jointly is not correct.

2) With regard to para II of the petition I state as follows:-

Condition No. 15 of the leases of each of the petitioners was that the lessees shall endeavour their atmost to catch silt in the area given to them along with the river and also in the hollows of the flooded area by planting Lakki and shall thus stop washing by the floods of the river.

Condition No. 10 of the lease to each of the petitioners was that the lessee shall execute a bond for Rs. 500/- five hundred and shall procure a surety for the like amount for the proper observance of the terms and conditions of this lease and in the exent of their not observing all the terms and conditions of this lease, The full amount of the bond or such part thereof as the Collector may determine shall be forfeited to Government and the said plot shall be resumed by the Government without any compensation.

4 Government by their Memorandum dated 3-7-42 requested the Collector to state why S.No. 215 of Galagali should not be resumed from the lessees for breach of the conditions of the grant. Government

further asked the Collector by their letter dated 25-9-52 as to what action has been taken in pursuance of the aforesaid memorandum. The Sub Divisional Forests Officer, Bagalkot inspected the land and reported to the Conservator of Forests, S.C., Belgaum on 20/27-3-54 inter alia as follows:-

"The river Krishna is fast scoring the banks in floods every year and consequently the portion of S.No. 215 towards this bank is being eaten away every year. A precipitous fall of 20'-25' feet depth has been caused all along this S.No. along the bank and this process of cutting might have been eased since the time this S.No. was deforested for being given to the cattle breeding Society. The lessees have not taken any anti erosion works to safe guard this bank from being washed away."

The Sub Divisional Forests Officer forwarded his report to the Conservator of Forests, S.C., Belgaum who in turn forwarded it to the Chief Conservator of Forests, B.S.Poona. The Chief Conservator of Forests, B.S. reported to Government on 19-4-54.

Shri C.J.Ambli, M.L.A. represented on 12-2-53 to the Collector in writing that there was breach in the conditions of lease. He also represented to th Hon. Minister to the effect that S.No. 215 and anothe were granted before 1937, that after the Congress Government stepped into power in 1937, the said S.Nos. had been taken back by Government and it was found that they were cultivated and personal profits were being made, that when the popular Government went out of office in 1937, the persons concerned were again granted the said lands for the purpose of breeding

cattle, that Government resumed back one land and S.No. 215 is still to be taken and that proceedings for the same are in progress and that on account of the delay the persons concerned have reaped crops and that therefore he requested the Government to resume back the said land immediately and to recover large profits they had raised till then. The representationsby -- Shri C.J.Ambli were not as alleged in para 2 of the petition.

6 The Grant Officer, Jamkhandi Division's report in May 1953 was received by the Collector who visited the land on 27-5-53 along with the Grant Officer and Sub Divisional Forests Officer and three of the petitioners. The Collector submitted a report to Government on 15-6-53 recommending for the cancellation of the lease. The case papers containing the lease deed as called for were forwarded to the Government on -- 18/20-7-1954.

7 The Government found on 29-9-1954 that the petitioners had committed a breach of condition No. 15 of the lease deeds as they failed to endeavour their utmost to catch silt in the respective area given to them along the river and also in the hollows of the flooded area by planting 'Kaddi' and thus failed to stop washing by the floods of the river. Government thus requested the Collector to give a notice to petitioners informing them of Government's intention to determine the leases and resume the lands on the ground that the lessee have committed a breach of condition 15.

8 A joint lease of S.No. 225 of Yadhalli had been given to the four petitioners. It appears that some of

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the officers who were not in possession of the lease deeds saw the land and information was supplied to them by the petitioners.

[Till very recently no breach of the conditions was noticed by any of the officers and] the Sub Divi-sional Forests Officer, Bagalkot noticed the facts as stated above and further action was taken in the matter as stated above.

3.) With reference to para III of the petition I have to state as under:-

8 Ship 10
FLD 1453

After receipt of Government letter of 29-9-1954, the Collector issued an order dated 9/1[illegible]-10-1954 and it was served upon each of the petitioners as in annexture 'C' on 20-10-1954. The petitioners were thereby informed that Government had decided to terminate the lease. Further the said order was forwarded to the Mahalkari Bilgi for resumption after service of -- notices. He issued notice to the petitioners to de-liver possession to the Bilgi Circle Officer on 28-10-54 as stated in para 3 of the petition. This notice was also served upon the lessees on 20-10-54.

The Collector sent a telegram to the Prant Officer on 21-10-54 to take possession immediately and he in turn, informed the Mahalkari to fix up the date for taking possession on 23-10-54. The Mahalkari accordingly issued fresh notices fixing date for taking possession on 23-10-54 and served them on -- 22-10-54 on the petitioners, personally on petitioner No. 3 and by ~~serving~~ affixing on the dwelling houses of peti-tioners No. 1 and 2 and by affixing on the land of petitioner No. 4. Petitioner No. 3 voluntarily handed over possession of his portion of land to the Prant Officer, Jamkhandi Division on the day fixed for the same i.e. on 23-10-54. The petitioner No. 3 was actually

present at the time of taking over possession.

P-IV. With regard to para IV of the petition I have to state that the acts of the opponents are not malafide nor high handed.

In view of the report of the Sub Divisional Forests Officer, Bagalkot, dated 20/27-3-54 quoted above in para 2 above, I state that lessees took no Anti erosion works to safeguard washing away. The opponents were not conducting enquiry with the sole intention of resuming the lands nor was the resumption made on false pretext.

[P-V. With regard to the allegations in paras V and prayer in para VI of the petition and about the legality I state that the same will be dealt with by the learned Government Pleader, High Court when the matter will be urged before the Hon. High Court.]

P-VI. With regard to para VII of the petition I state that in view of the injunction of the High Court the auction sale of the standing crop fixed on 12-11-1954 was stayed and the two watchmen kept at the time of taking over possession are continued.

What is stated above is true on the information received and believed to be true.

Bijapur
6th December 1954.

Personal Assistant to the Collector, Bijapur.

Solemnly affirmed before me by deponent named Shri Rama Sanoo Naik, the Personal Assistant to the Collector of Bijapur, whom I personally know.

Bijapur.
6th Dec. 1954.

Sub Divisional Magistrate,
Bijapur City.

true copy

for Collector Bijapur

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IN THE HIGH COURT OF JUDICATURE OF BOMBAY.

Special Civil Application No.2422/54
under Article 226 of the Constitution of India.

1) Mallangouda Veerangouda Patil Nyamangoudar Agriculturist of Galgali, Petha Bilgi, district Bijapur.

2) Ramanagouda Venkatgouda Patil, agriculturist of Yedhalli, petha Bilgi, District Bijapur.

3) Rachappa Mallanappa Desai, Agriculturist of Yedhalli, petha Bilgi District Bijapur.

4) Lilachand Pipchand Gujar agriculturist of Yedhalli, petha Bilgi District Bijapur. } Petitioners.

versus

1) The Collector of Bijapur, Bijapur

2) State of Bombay. } Opponents.

AFFIDAVIT.

I, S.G.Walawalkar, Under Secretary to the Government of Bombay, Agriculture and Forest Department having my office in the Secretariat do solemnly affirm and state as follows:-

1. I have read a copy of the petition filed by the abovenamed petitioners.

2. With reference to paragraph 1 of the petition, I say that what is stated therein is substantially correct except that the leases in respect of the 4 plots of land bearing S.No.215 were not executed by the petitioners jointly but were each lease was executed by each petitioner separately.

3. With reference to paragraphs 2 and 3 of the petition, I say that in or about 1952 the 2nd opponent came to know that the petitioners had committed persistent breaches of clauses 10 - 15 of the respective leases executed by them and directed inquiry into the correct state of affairs.

The first opponent who had made personal inquiries in the matter submitted his report to the 2nd opponent Government on 15-6-1953 and reported the breaches of the conditions on the part of the petitioners and recommended that the leases in favour of the petitioners should be cancelled. Before any orders could be issued on the Collector's report the representation dated 8th July 1953 made by the petitioners (Ex.B to the petition) was received and it was decided that the matter should be further investigated. The representation was accordingly forwarded to the first opponent and the Chief Conservator of Forests and the Director of ~~Fiscal Authorities~~ Agriculture with a request to submit their reports. The said officers made detailed inquiries and submitted their report recommending that the leases in favour of the petitioners should be cancelled. The Conservator of Forests, Southern Circle particularly observed as follows:-

" The river Krishna is fast scouring the banks in floods every year and consequently the portion of S.No.215 towards this bank is being eaten away every year. A precipitous fall of 20'-25' feet depth has been caused all along this S.No. along the bank and this process of cutting might have been caused since the time this S.No. was deforested for being given to the cattle breeding Society. The lessees have not taken any anti corsion works to safeguard this bank from being w shed x away."

On considering the said reports Government was satisfied about the persisting breaches committed by the petitioners and directed the first opponent to terminate the leases and the order dated 9th October 1954 issued by the first opponent Ex.C to the petition was issued in pursuance of the 2nd opponent's said decision.

4. With reference to paragraph 4 of the petition I say that the report received by Government clearly disclosed that the petitio ers had failed to endeavour their utmost to catching silt in the area given to them along with the river and also in the hallow of the flood area by planting Lakki and thus stopping the washing away by the floods of the river as required by clause 16 of the leases. It is submitted that the petitioners were fully aware of the breaches committed by them and no further notice was considered necessary. ~~I do not admit~~ The rest of the allegations or the correctness of the submissions contained in the said paragraph are not admitted

5. With reference to paragraph 5 of the petition it is submitted that the petitioners are not entitled to any relief on the grounds set out therein or on any other grounds. It is denied that the orders referred to in annexure C to the petition are illegal , ultra vires or beyond the legal powers of the opponents. It is denied that the opponents and their servants had no power to pass an order of resumption to terminate leases unilaterally and to takethe possession of the land. It is further denied that the opponents and their servants ~~had the public~~ exceeded their duty in taking ~~and~~ resuming the land by resorting to court of law. It is denied that it was unjust to resume the land without prior notice to the petitioners and without ~~giving~~ giving them an opportunity to ~~meeting~~ meeting the allegations made against them. It is further denied that the actionsof the opponents and their servants are bad in law or that there is no bonafides on their parts. It is also denied that the contents of the annexure C are baseless and unwarranted.

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6. With reference to paragraph 6 of the petition I say that the petitioners are not entitled to any relief and that application should be dismissed with cost costs.

7. With reference to paragraph 7 of the petition I say that in view of the injunction issued by this Honourable Court the auction sale of the standing crop fixed on 12-11-1954 ~~xxxxxxxxxx~~ has been stayed and kept under the watch of ~~xxxx~~ two watchmen.

Solemnly affirmed at Bombay this day of 1954

Before me.

No.FAD.SR-279.
Bijapur, 2-12-1954.

To

The Secretary to Government,
Agriculture and Forests Dept. Bombay Castle,
Bombay 1.

AGRICULTURE & FORESTS DEPARTMENT
Date - [illegible] 1954
FILE No. FLD(453)
SERIAL No. 975300

Subject:- Sp.C.A.No.2422/54
Mallangouda V.Patil
Vs
Collector of Bijapur.

Reference:- Your telegram dated 29-11-1954.

Sir,

A copy of petition filed by Shri M.V.Patil and others is still awaited from the Government Pleader, High-Court, Bombay, who has already been requested to send the same immediately. Report will be submitted on receipt of a copy of the application.

Yours faithfully,

For Collector, Bijapur.

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No.F.A.D.S.R.279.

Bijapur, 6th December 1954.

From:-

Shri H.T.Sadhwani, I.A.S.,
Collector of Bijapur.

AFP

To

The Remembrancer of Legal Affairs,
Secretariat, Bombay No.1.

Subject:- Special Civil Application No.2422/54
Mallangouda Veerangouda Patil and
others.

Vs

1) The Collector of Bijapur.

2) The State of Bombay

(Applications under article 226 of the Constitution of India)

Reference:- G.L.L.D.No.26673/E dated ~~x~~ 24-11-54.

Sir,

I have the honour to forward herewith a copy of the letter No.10344 dated 2-12-1954 addressed to ~~him~~ me by the Government Pleader, High Court, Bombay. I am also enclosing a copy of the petition received from him along with reference.

The defence of the application may be sanctioned and the Govt.Pleader, High Court, Bombay may be instructed to appear and oppose the application. The hearing of the case is fixed on 13-12-1954. Report under Rule 71 of the Land Officer's Rules is also enclosed.

I am forwarding a copy of this report along with copy of petition and with files 1 to 10 and affidavit stated below to the Government Pleader, High-Court, Bombay as noted below :-

As regards the affidavit called for by Govt. under No.referred to above I submit that the proper Officer to make an affidavit is the then Sub-Divisional Forest Officer, Bagalkot. However, copy of the affidavit ~~may~~ made by Personal Assistant to the Collector is enclosed. The SDFO is being asked to make an inspection of the site and make a further affidavit in respect of growth of Lakkee trees

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File No.I. Pages 1 to 78 containing G.R.R.D.No.6067/39-I, dated 3-11-1954 sanctioning grant of suit land to the lessees(page 1 to 6).

2) File No.II pages 1 to 27. Application of the lessees for resumption of S.No.225 of Yadhalli.

3) File No.III pages 1 to 13. Containing reports of the Mahalkari Bilgi and the application of villagers of Gulbal for grant of land at Galagali and Yadhalli.

4)File No.IV.pages 1 to 15 containing report of the Mahalkari Bilgi on the application of Shri Katti, M.G.for resumption of S.No. 215 of Galagali.

5)File No.V.Pages 1 to 17 Containing report of Mahalkari Bilgi on the applications of Harijans of Yadhalli for grant of S.No.208 of Yadhalli.

6)File No.VI pages 1 to 201. Containing lease executed by the lessees(pages 55 to 73) and copy of Govt.order for resumption of S.No.225 of Yadhalli(page-1).

7)File No.VII Pages 1 to 15 containing the statement of Shri R.M.Desai one of the lessees.

8) File No.VIII 1 to 215 Govt.endt.No.0/42113-D of 28-7-1953 enclosing a copy of the lessees application dated 8-7-1953 for remarks.

9) File No.IX pages 1 to 81. Notice issued to the lessees for terminating the lease and other papers in respect of taking over possession of S.No.215 of Galagali.

10)File No.X. 1 to 220 Lands: Bijapur, Galgali & Yadhalli Patha Bilgi

The following papers have already been supplied to the Govt.Pleader,High Court,Bombay, under even No. dated 18-11-1954.

1) The injunction order in original.
2) Copy of FAD.SR-279 dated 9/13-10-54.
3) Copy of G.L.Agr. & F.D.Confdl.No.FLD-1453/J dated 28-9-54.
4) Copy of para 1 and 2 of the R.L.A's note sent as an accompaniment to Govt.letter dated 29-9-54.
5) Copy of S.D.F.O.Bagalkot's No.C/D/99 of 1953-54 dated 29-3-1954 addressed to the Conservator of Forests, S.C.Belgaum and sent as an accompaniment to Govt.letter dated 29-9-1954.

AGRICULTURE & FORESTS DEPARTMENT (53)
Date - [illegible] 1954
FILE No. J75347
SERIAL No.

Yours faithfully,

Collector of Bijapur.

Copy submitted to :-
1) Government, Agriculture and Forests Dept.Bombay.
2) Government,Revenue Department, Bombay.
3) Government,Legal Department, Bombay.

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4). Copy forwarded w.cs.to the Government Pleader, High Court, Bombay, with reference to his No. 10384 dated 2-12-1954.

2. The affidavit with five copies thereof and a copy of the report under Rule 71 of the Law Officers Rules - are sent herewith. The case papers in 10 Files are sent today by registered post.

Collector of Bijapur.

Accompaniments:

1). Affidavit (with five spare copies).

2). Report under the Law Officers Rules.

3). Copy of the Petition.

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Report under Rule 71 of the Rules for the Conduct of the Legal Affairs of Government.

I). Spl.Suit application No.2428 of 1954.

II). It was instituted on 1-11-1954 in the High Court of Judicature at Bombay.

III) Names of the parties:-

(i) Hallangouda Veerangouda Patil,Sangameshwar Agriculturist of Galagali, Potha Bilgi,Dist. Bijapur.

(ii) Mallangouda Vadalgouda Patil Agri.of Yadhalli,Potha Bilgi,District-Bijapur.

(iii) Bachappa Mallappa Desai Agril.of Yadhalli, Potha Bilgi,District Bijapur.

(iv) Bachappa Mallappa Desai Agril.of Yadhalli, Potha Bilgi,District Bijapur.

(v) Allisahmd Ahmedsaheb Gujar,Agril.of Yadhalli, Potha Bilgi,District Bijapur

--- Petitioners.

Vs.

(1) The Collector of Bijapur
(2) The State of Bombay. } Opponents.

IV
(~~iii~~) The value of the plaint for process fees is Rs. 500/-.

(V). The date fixed for the first hearing is 13-12-1954.

(VI). No notice has been given under Section 80 of C.P.C.and none is necessary.

2 (a) A copy of the application typed in half margin is sent herewith.

(b) Regarding para 1 of the petition:-

(1) Govt.passed a resolution R.D.No.6057/38-I of 8-12-1941 to the effect that S.No.216 of Galagali should be utilised for establishing a combined cattle breeding and mixed farming project. The Government directed thereunder that a plot of 25 acres out of the cultivable area of about 190 acres in the said land be granted to each of the four petitioners on separate leases for 15 years in the first instance. The Government also directed that the Collector of Bijapur -

Hijaur be requested to ask the cultivators to execute the leases in the forms appended to the O.P. in question. Accordingly S.No.216/4, 216/2, 225/1 and 225 216/3 each measuring about 25 acres were let to the petitioners Nos. 1,2,3 and 4 respectively and they executed on 28-4-1945 separate leases. Annexure A to the petition is a copy of the deed lease executed separately in respect of plot taken on lease by each of the petitioners. The leases were subject to the condition embodied in the deeds of lease. The allegation in para 1 of the petition that the deeds of lease were executed by the petitioners individually and jointly is not correct.

(3) Regarding para 11 of the Petition:-

Condition No.18 of the leases of each of the petitioners was that the lessees shall endeavour their utmost to catch silt in the area given to them along with the river and also in the hollows of the flooded area by planting lokki and shall also stop washing by the floods of the River.

Condition No.19 of the lease to each of the petitioners was that the lessee shall execute a bond for Rs.500/- five hundred and shall procure a surety for the like amount for the proper observance of the terms terms and conditions of this lease and in the event of their not observing all the terms and conditions of this lease, the full amount of the bond or such part thereof as the Collector may determine shall be forfeited to Govt. and the said plot shall be resumed by the Government without any compensation.

The Government by their Memo.dated 2-7-52 requested the Collector to state why S.No.215 of Calagadi should not be resumed from the lessees for breach of the conditions of the grant. Government further asked the Collector by their letter dated 28-2-1952 as to what action has been taken in pursuance of the aforesaid Memo. The S.D.F.O.Gogulnat inspected and reported to the Conservator of Forests,N.C.Belgaum, on 6/27-2-1954 later Allo as follows.

" The River Krishna is fast scouring the banks in floods every year and consequently the portion of S.No.215 towards this bank is being eaten away every year. A precipitous fall of 20-25 feet depth has been caused all along this S.No.along the bank and this process of cutting might have caused since the time this S.No. was disforested for being given to the cattle breeding society. The lessees have not taken any anti-erosion works to safeguard this bank from being washed away.

The S.D.F.O.forwarded his report to the Conservator of Forests,N.C.Belgaum who in turn forwarded it to the Chief Conservator of Forests, S.B.Poona. The Chief Conservator of Forest, S.B., reported to Government on 19-6-1954.

Shri.C.J.Amin, M.L.A., represented on 18-2-1953 to the Collector in writing that there was breach in the conditions of lease. He also represented to the Hon.Minister to the effect that S.No.215 and another have been granted before 1937, that after the Congress Government stepped into power in 1937, said S.Nos. had been taken back by Govt. as it was found that they were cultivated and personal profits were being made that when the popular Govt.went out of office in 1939, the

the persons concerned were again granted the said lands for the purpose of breeding cattle, that Govt. resumed back one land and L.No.216 is still to be - taken and that proceedings for the same are in - progress and that on account of the delay the - persons concerned have reaped crops each and that - therefore he requested the Govt. to resume back the - said land immediately and to recover large profits - they had raised till then. The representation by - Shri.C.J.Joshi, were not as alleged in para 2 of - the petition.

The Grant Officer, Kathmandi Dn's report in May, 1953 was received by the Collector who visited the land on 27-6-1953 along with the Grant Officer and S.D.P.O.and three of the petitioners. The Collector submitted a report to Government on [illegible] 16-6-1953 recommending for the cancellation of - the lease. The case papers containing the lease - deeds as called for were forwarded to the Government on 12/13-7-1954.

The Government found on 23-7-1954 that the petitioners had committed a breach of condition No.16 of the lease deeds as they failed to endeavour their utmost to catch silt in the respective area given to them along the river and also in the hollows of the flooded area by planting 'Nakal' and thus failed to stop washing by the flood of the river. Government - thus requested the Collector to give a notice to the petitioners informing them of the Government's intention to determine the lease and resume the lands on the ground that the lessees have committed a breach of condition 15.

A joint lease of L.No.295 of Kathmandi had been given by the four petitioners. It appears that

1239 95 HC

that some of the officers who were not in possession of the lease deeds ~~were~~ saw the land and information was supplied to them by the petitioners.

Till very recently no breach of the conditions was noticed by any of the officers and and the S.D.C.O.Bagalkot noticed the facts as stated above and further action was taken in the matter as stated above.

R.3 regarding para II of the petition.

After receipt of Govt.letter of 23-3-1956 issued an order dated 9/12-10-1956 and the Collector on 23-10-1956, the petitioners were thereby informed that Government had decided to terminate the lease. Further the said order was forwarded to the Mahalkari, Bilgi, for necessary resumption after service of notice. He issued notices to the petitioners to deliver possession to the Bilgi Circle Officer on 25-10-1956 as stated in Para 3 of the petition. This notice also was served on the lessees on 29-10-1956.

* it was served upon each of the petitioners as in annexure 'C'

The Collector sent a telegram to the Front Officer on 21-10-1956 to take possession immediately and by himself who in turn informed the Mahalkari to fix up the date for taking possession on 22-10-1956. The Mahalkari accordingly issued fresh notices fixing date for resumption and taking possession on 23-10-1956 and duly served them on 29-10-1956. Petitioner No.3 voluntarily handed over possession of his portion of land to the Front officer, Jamkhandi Mr., on the day fixed for the same i.e. on 23-10-1956. The Petitioner No.3 was actually present at the time of taking over possession.

R-IV. regarding para 4 of the petition:

The acts of the opponents are not admitted nor high handed.

In view of the report of the A.D.F.O. Nagaland dt. 20/27-1-1954 quoted above in para 2-2 above, it is seen that lessees took no anti-erosion works to safeguard washing away. The appellants were not conducting enquiry with the sole intention of resuming the lands nor was the resumption made on false pretex.

2-V. With regard to allegations in paras V and prayer in para VI and about the legality of the petition, I state that the same should be dealt with by the learned Government Pleader High Court and the matter will be argued before the Hon.High Court.

2-VI. With regard to para VII of the petition I state that In view of the injunction of the High Court the auction sale of the standing crop fixed on 15-11-1954 was stayed and the two watchmen kept at the time of taking over possession are continued.

2.8 (i) (ii) (iii):- The petitioners committed breach of condition No.15. The lease thus determined by forfeiture, and the Collector in pursuance of the order of the Government gave notice in writing to the lessees as stated in 2-3 above. The application should be defended on the ground that the forfeiture, resumption and the taking possession are legal.

....

ok signed by the collector

For Collector of Bijapur.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

Special Civil Application No.2422/54
under Article 226 of the Constitution of India.

1)	Mallangouda Veerangouda Patil Nyamangouder Agriculturist of Galagali, petha Bilgi, district Bijapur.	Petitioners
2)	Ramangouda Venkatgouda Patil, agriculturist of Yedhalli, petha Bilgi, District Bijapur.	
3)	Kachappa Mallappa Desai, Agricul-turist of Yedhalli, petha Bilgi District Bijapur.	
4)	Lilachand Dipchand Gujar agricul-turist of Yedhalli, petha Bilgi District Bijapur.	

Versus

1)	The Collector of Bijapur, Bijapur	Opponents.
2)	State of Bombay.	

AFFIDAVIT

I, Rama Sanoo Naik, age 51, Government service being Personal Assistant to the Collector of Bijapur do hereby on solemn affirmation state as under:-

That I have perused the copy of the above application filed by the petitioners above named and in reply thereto beg to state as under:

1) With regard to para 1 of the petition, I state as follows:

Government passed a resolution Revenue Department No. 6057/39-I of 3-12-41 to the effect that S.No. 215 of Galagali should be utilised for establishing combined cattle breeding and mixed farming project. The Government directed there-under that a plot of 25 acres out of the cultivable area of about 100 acres in the said land be granted to each of the four peti-tioners on separate leases for 15 years in the first instance. The Government also directed that the Colle-ctor of Bijapur be requested to ask the cultivators to execute the leases in the forms appended to the

Government Resolution in question. Accordingly S.No. 216/4, 215/2, 215/1 and 215/3 each measuring about 25 acres were let to the petitioners Nos. 1, 2, 3 and 4 respectively and they executed on 22-4-42 separate leases. Annexure A to the petition is a copy of the lease deed executed separately in respect of plot taken on lease by each of the petitioners. The leases were subject to the conditions embodied in the deeds of lease. The allegation in para 1 of the petition that the deeds of lease were executed by the petitioners individually and jointly is not correct.

2) With regard to para II of the petition I state as follows:

Condition No. 15 of the leases of each of the petitioners was that the lessees shall endeavour their utmost to catch silt in the area given to them along with the river and also in the hollows of the flooded area by planting Lakki and shall thus stop washing by the floods of the river.

Condition No. 10 of the lease to each of the petitioners was that the lessee shall execute a bond for Rs. 500/- five hundred and shall procure a surety for the like amount for the proper observance of the terms and conditions of this lease and in the event of their not observing all the terms and conditions of this lease, the full amount of the bond or such part thereof as the Collector may determine shall be forfeited to Government and the said plot shall be resumed by the Government without any compensation.

Government by their Memorandum dated 3-7-52 requested the Collector to state why S.No. 216 of Galagali should not be resumed from the lessees for breach of the conditions of the grant. Government

Further asked the Collector by their letter dated 25-8-52 as to what action has been taken in pursuance of the aforesaid memorandum. The Sub Divisional Forests Officer, Bagalkot inspected the land and reported to the Conservator of Forests, S.C., Belgaum on 20/27-3-54 inter alia as follows:-

"The river Krishna is fast scoring the banks in floods every year and consequently the portion of S.No. 215 towards this bank is being eaten away every year. A precipitous fall of 20'-25' feet depth has been caused all along this S.No. along the bank and this process of cutting might have been eased since the time this S.No. was deforested for being given to the cattle breeding Society. The lessees have not taken any anti erosion works to safe guard this bank from being washed away.".

The Sub Divisional Forests Officer forwarded his report to the Conservator of Forests, S.C. Belgaum who in turn forwarded it to the Chief Conservator of Forests, B.S.Poona. The Chief Conservator of Forests, B.S. reported to Government on 19-4-54.

Shri C.J.Ambli, M.L.A. represented on 12-2-52 to the Collector in writing that there was breach in the conditions of lease. He also represented to the Hon. Minister to the effect that S.No. 215 and another were granted before 1937, that after the Congress Government stepped into power in 1937, the said S.Nos. had been taken back by Government as it was found that they were cultivated and personal profits were being made, that when the popular Government went out of office in 1939, the persons concerned were again granted the said lands for the purpose of breeding

Cattle, that Government resumed back one land and S.No. 218 is still to be taken and that proceedings for the same are in progress and that on account of the delay the persons concerned have reaped crops and that therefore he requested the Government to resume back the said land immediately and to recover large profits they had raised till then. The representations by Shri C.J.Ambli were not as alleged in para 2 of the petition.

The Prant Officer, Jamkhandi Division's report in May 1953 was received by the Collector who visited the land on 27-5-53 along with the Prant Officer and Sub Divisional Forests Officer and three of the petitioners. The Collector submitted a report to Government on 15-6-53 recommending for the cancellation of the lease. The case papers containing the lease deed as called for were forwarded to the Government on 18/20-7-1954.

The Government found on 23-9-1954 that the petitioners had committed a breach of condition No. 15 of the lease deeds as they failed to endeavour their utmost to catch silt in the respective area given to them along the river and also in the hollows of the flooded area by planting 'Lakki' and thus failed to stop washing by the floods of the river. Government thus requested the Collector to give a notice to petitioners informing them of Government's intention to determine the leases and resume the lands on the ground that the lessees have committed a breach of condition 15.

A joint lease of S.No. 225 of Yadhalli had been given to the four petitioners. It appears that some of

the officers who were not in possession of the lease deeds saw the land and information was supplied to them by the petitioners.

Till very recently no breach of the conditions was noticed by any of the officers and the Sub Divi-sional Forests Officer, Bagalkot noticed the facts as stated above and further action was taken in the matter as stated above.

3) With reference to para III of the petition I have to state as under:-

After receipt of Government letter of 29-9-1954, the Collector issued an order dated 9/13-10-1954 and it was served upon each of the petitioners as in annexture 'C' on 20-10-1954. The petitioners were thereby informed that Government had decided to terminate the lease. Further the said order was forwarded to the Mahalkari Bilgi for resumption after service of -- notices. He issued notice to the petitioners to de-liver possession to the Bilgi Circle Officer on 22-10-54 as stated in para 3 of the petition. This notice was also served upon the lessees on 20-10-54.

The Collector sent a telegram to the Prant Officer on 21-10-54 to take possession immediately and he in turn, informed the Mahalkari to fix up the date for taking possession on 23-10-54. The Mahalkari accordingly issued fresh notices fixing date for taking possession on 23-10-54 and served them on -- 22-10-54 on the petitioners, personally on petitioner No. 3 and by affixing on the dwelling houses of peti-tioners No. 1 and 2 and by affixing on the land of petitioner No. 4. Petitioner No. 3 voluntarily handed over possession of his portion of land to the Prant Officer, Jamkhandi Division on the day fixed for the same i.e. 23-10-54. The petitioner No. 3 was actually

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present at the time of taking over possession.

4) With regard to para IV of the petition I have to state that the acts of the opponents are not malafide nor High handed.

In view of the report of the Sub Divisional Forests Officer, Bagalkot, dated 20/27-3-54 quoted above in para 2 above, I state that lessees took no Anti erosion works to safeguard washing away. The opponents were not conducting enquiry with the sole intention of resuming the lands nor was the resumption made on false pretext.

5) With regard to the allegations in para V and prayer in para VI of the petition and about the legality I state that the same will be dealt with by the learned Government Pleader, High Court when the matter will be urged before the Hon. High Court.

6) With regard to para VII of the petition I state that in view of the injunction of the High Court the auction sale of the standing crop fixed on 12-11-1954 was stayed and the two watchmen kept at the time of taking over possession are continued.

What is stated above is true on the information received and believed to be true.

Bijapur
6th December 1954.

Personal Assistant to the Collector, Bijapur.

Solemnly affirmed before me by deponent named Shri Rama Sanoo Naik, the Personal Assistant to the Collector of Bijapur, whom I personally know.

Bijapur
6th Dec. 1954.

Sub Divisional Magistrate, Bijapur City.

true copy

for Collector Bijapur
6-12-54

In the Court

Special Civil [illegible]

District : Bijapur.

1) Mallangouda Veerangouda Patil Kumavengasdar agriculturist of Galagali, patha Bilgi,dist.Bijapur.

2) Ramgouda Venkatgouda Patil, agriculturist of Yadhalli,patha Bilgi,district Bijapur.

3) Reghappa Mallappa Desai, agriculturist of Yadhalli,patha Bilgi District Bijapur.

4) Lilachand Manchand Gujar agriculturist of Yadhalli,patha Bilgi, District Bijapur. — Petitioners.

Versus

1) The Collector of Bijapur,Bijapur.

2) State of Bombay — Opponents

Claim Rs.200/- for Process fees.

The humble petition of the petitioners abovenamed,

Most Respectfully sheweth:-

1) That since 1942 thePetitioners have been conducting an agricultural project known as "Combined Cattle Breeding and Mixed Farming Project" on a Govt.Waste land being S.No.215 [illegible] measuring about 100 acres situate on the bank of the Krishna River in the village Galagali in Bilgi patha of the Bijapur Dist. In pursuance of a scheme sanctioned by Govt. order No.C.R.P.B.No.6057/38-I,dated 17th December 1941, the Govt.of Bombay has given out the said land to the Petitioners for a period of 15 years from 22-4-1942 for the express purpose of the said project subject to certain conditions embodied in the deeds of lease executed on 22-4- Petitioners individually and both of the Collector of Bijapur. deeds of lease are in the Opponents. The Petitioners

the said lease executed
the petitioners on 22-4-1942.
That for a period of 11 years since 1942 the
petitioners were conducting the said project sub-ject
to the supervision and superintendence of Govt.
carrying out all the conditions and rules
laid down by Govt.from time to time Officers of
Govt.were visiting and personally inspecting
the said project and the petitioners were
submitting periodical reports to the appropriate
officers of the Govt. Not on one occasion during
the period of 11 years the Govt.found any fault
with the Project or complaint of breach of any
of the conditions in Annexture A by the Petitioners.
But in 1953 one C.J.Inbali a Congress M.L.A. from
the Bilagi Constituency made representations to
the Opponents and to the Hon'ble Minister concerned
complaining that the lease to the Petitioners should
be resumed on the ground that the same was made by
the predecessor Govt.and it was improper that the
Congress Govt.should continue the same. As a result
Opponent No.1 visited the farm on 27-5-1953 and
personally inspected the same. Thereafter the Local
Gable Officer recorded statements of the Petitioners.
before recording the said statements of anytime there-
after neither the Opponents nor any of their
officers informed the petitioners that they had
committed any particular breach of any of the
conditions in the lease at Annexture "A". As the
petitioners had reasons to believe that the afore-
said Inbali was persisting in his efforts and
the Opponents were likely to resume the lands
on some other pretext . The petitioners
submitted detailed representations to
the Minister for Revenue and Forests. Govt.
stating all the conditions of the lease

were being carried out by the Petitioners. A true copy of the said representation is annexed hereto and marked Annexture "B".

(III) That a year thereafter on 15-10-1964 the petitioners were surprised to receive orders dated 12-10-1964 issued by opponent No.1 terminating with immediate effect the lease executed by the Petitioners on 22-4-1963 on the allegation that the petitioners had committed breach of condition No.15 in Annexture A relating to planting of 'Lahri' plants on the bank of the river. A true copy of the said order of termination bearing No.L.A.D.C.-.-279 dated 12-10-1964 served on each one of the petitioners is annexed hereto and marked Annexture "C". Along with the said orders at Annexture C the petitioners were served with notices issued by the Mahalkari of Bigi directing the petitioners to deliver possession of the land to the officers of Bigi Circle on 28-10-1964 failing which possession should be taken ex-parte in the presence of Panchas. As the Petitioners immediately rushed to Bombay for the purpose of obtaining a stay order before 27-10-1964, the servants of Opponents visited the land on 27-10-1964 and took possession of the same along with standing crop in the absence of the petitioners.

(IV) That the Petitioners say that the unilateral acts of the Opponents and their servants in resuming the lands for an alleged breach of one of the several conditions of the lease and of taking possession thereof with indecent haste on a date earlier than the one notified by the Mahalkari Bigi, are unlawful, besides being

commencement of the lease the petitioners have been planting from time to time 'Lakki' plants on the bank of the river and~~xxx~~ catching silt and preventing washings by the floods. Even at the time when the orders at Annexture 'C' were passed and prior to that 'Lakki' plants planted by the petitioners were standing on the land. Before the passing of the orders at Annexture 'C' the Petitioners were never told by the Opponents or their servants that they had committed breach of condition No.15. Even at the time of recording their statements in May 1953, the Petitioners attention was not directed towards the alleged breach of conditionx No.15, but questions were put relating to alleged encroachment of Govt.land by the petitioners and their alleged failure to enter into security-bonds as required by condition No.10 and to construction of sheds on the land. The Petitioners say that the opponents and their servants had been conducting a fishing inquiry with the sole intention of resuming the lands on some pretext or the other and ultimately resumed the same on a false pretext. Assuming 'Lakki' were not planted by the Petitioners, they could have been given an opportunity to plant the same and there was no such urgency or imminent danager of flood that the land should have been resumed without prior notice and their possession should have been taken with indecent haste. The Petitioners humbly submit tht the action of the Opponents and their servants, besides being bad on facts and for want of bona-fides, is illegal. There was no justification in law for the Opponents and their servants to take the law in their own hands, to resume the lands and

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By Express Delivery.

No.10384.
Office of the Government
Pleader,High Court,Bombay,
2nd December,1954.

From

Shri.H.M.Choksi,B.A.(Hons).,LL.B.,
Government Pleader,High Court,

To

The Collector of Bijapur,
at Bijapur.

Subject:- Special Civil Application
No.2422/54 ~~xx~~.
Mallangouda Veerangouda Patil
and Ors.
Vs.
The Collector of Bijapur and
another.

.....

Sir,

With reference to the above subject, I have the honour to send herewith a copy of the above petition with a request to send me affidavit in reply to the petition para to para (with five - copies thereof) along with the copy of your report submitted to Government in detail under Rule 71(2) of Law Officers Rules and original case papers. The affidavit should please be sent to me so as to reach this office on Tuesday the 7th instant.

This should please be treated as most - urgent as the above application is now fixed for - final hearing on Monday the 13th instant. No further adjournment is likely to be obtained in this matter. It is therefore requested that the affidavit and - the other papers may please be sent to me by Tuesday the 7th instant as the affidavit must be filed - latest by Wednesday the 8th instant.

Yours faithfully,

Sd/-

For Government Pleader,
High Court.

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and take their possession unilaterally with the aid of the coercive machinery of Govt.without resorting to the legal channels.

(V) The Petitioners therefore approach this Hon'ble Court under Article 226 of the Constitution of India for the reliefs set out therein below on the following grounds among others namely that :-

(1) The orders at Annexture C are illegal, ultravires and beyond the legal powers of the Opponent.

(2) The relationship between the Govt.and the petitioners under the lease-deed at Annexture is that of a landlord and tenants.

(3) The Opponents and their servants had no power to pass an order of resumption, to terminate the lease inilaterally and to take possession of the lands with the said of the coercive machinery of the Government.

(4) The Opponents and their servants exceeded their public duty in taking law in their own hands and using the Govt.machinerym for resuming the lands without resorting to a Court of Law.

(5) It was highly injust to resume the lands without prior notice to the Petitioners and without giving them an opportunity to meet the allegation made against them.

(6) The actions of the Opponents and their servants are bad in law for want of bona-fides on their part.

(7) The allegation made against the petitioners in Annexture 'C' are baseless and unwarranted.

(VI) It is therefore prayed that :-

(a) The record and preceedings relating to the case be called for from the Opponent

(b) The orders at Annexture 'C' be quashed by an appropriate writ or order;

(c) The Opponents be directed by an appropriate Writ or Order to restore possession of lands [illegible]g S.No.215 situate at Galggali in Bilgi petha District Bijapur to the xx Petitioners and

(d) such other order or orders be passed as may be deemed fit in the circumstances of the case.

(VII) The petitioners further say that ther is valuable standing crop of jowar, Maize, beens etc. gpown by the Petitioners on the land and the cost of cultivation incurred by the Petitioners as estimated by Govt.iteself is Rs.150/- per four acres. The Government is likely to sell by auction or otherwise dispose of the said standing crop and other property of the Petitioners situate in the land. It is therefore prayed that pending the disposal of this Petition the Opponents be restrained from selling by auction or otherwise disposing of or disturbing the standing crop or any property belonging to the Petitioners and situate in Survey No.215 of Galagali in Petha Bilgi of the Bijapur District.

And for this act of Justice and kindness Your Lordships' Pettioners as in duty bound shall every pray.

High Court,
Bombay,
1st November 1954.

Sd/- x x x
Advocate for the Petitioners.

I,

the Petitioner do hereby state on solemn affirmation that what is stated in the abovesaid petition is explained to me and I state that is true and in witness whereof I have signed the same today at Bombay dated this 1st day of December 1954.

I have explained the contents of this [illegible]n to the deponent in vernacular.

he bull, with maintenance at Rs.7 per mensum.

6) The lessee shall maintain the cows and their progeny in good condition and fallow the instructions of the stock Expert in regard to his breeding policy.

The lessee shall stock such quantity of hay and epare such amount of silage as is determined by Livestock Expert on the grazing area leased to jointly along with other lessees by Govt.for the ese under the project aforesaid in order to supplement the grazing available there. During the non-monsoon onths then the 'Kuran' area is accessible the herds all be removed to the area leased hereunder and shall maintained there. The manure shall be stored on the id plot and applied to the cultivable area ina the plot.

The lessee shall maintain all the yound lesses may dispose of the young stock with the sanction of the Livestock Expert, the First preference being always given to he nominees of the Wilson Anti-Famine Institute, Bijapur.

The lessee shall see that the Khillari cows and their emale progany are served only by the bull supplied by the livestock Expert as hereinafter described.

The lessee shall maintain a proper record of the ervice and breeding in respect of his herd.

The lessee shall execute a bond for Rupees five hundred 500/-) and shall procure a surety for the like amount the proper observance of the terms and conditions of his lease and of the lease of land at Yadhalli leased jointly to him for the purpose of the Combined Cattle eeding and Mixed Farming Project, so far as they are plicable to him and is the event of his not observing ll thes terms and conditions as this lease and of the joint lease referred to above, the full amount of the ond or such part thereof as the Collector may determined all be forfeited to the Govt.and the said plotx shall be sumed by the Govt.without any compensation.

Annexure 'A'

Accompaniment to G.R.A.D.No.6057/30-I of 3-12-1941.

Form of lease of land granted for the "Combined Cattle Breeding and mixed farming Project" to be occupied by the lessees separately.

To

This is to certify that Mr. of Taluka District (hereinafter called "the lessee") has, subject to the provisions of the Bombay Revenue Code,1879,(Bom.V of 1879) and the rules made thereunder, and subject to the conditions hereinafter specified been allowed by the Governor of Bombay(hereinafter referred to as"Government") to occupy for the purposes of"the Combined Cattle Breeding and Mixed Farming Project" for a period of 15 years, commencing from date of 194 (the aforesaid called "the said term") a plot of land situated in the village of Galagali patha Hilgi,district, Bijapur, measuring about 26 acres and more particularly described in the schedule hereunder(hereinafter referred to as the said plot):-

1) The lessee shall not claim any right to the trees now existing or growing hereafter in the said plot but shall maintain the trees in good condition and shall not cause any loss, damage or injury to them.

2) The said plot shall be handed over back by the Lessee to the Govt.on the date of expiry of the said term in the same good condition in which it was at the time of leasing the said plot, ordinary wear and tear excepted.

3) The lessee shall within three months of his taking possession of the said plot buy at his own expense not less than six Khillari cows approved by the Livestock Expert to Govt.B.P.(hereinafter referred to as the Live-stock Expert) and shall make every attempt to increase their number.

(4) A Khillari bull will be supplied by the Live stock Expert on ~~xxx~~ premium Bull System i.e. other at 1/2 cost and no subsistence the lessee any bull cost of

Annexure "B"

Subject:- Combined Cattle Breeding and mixed farming project at village Kathalli, patha Sirsi.

To

The Hon.Minister,
Revenue and Forests,Govt. of Bombay,
Bombay.

Respected Sir,

We the undersigned four members of above cattle breeding farm R.V.Patil of Kathalli (2) S.V.Hyamagander of Galagali 3) B.M.Desai of Kathalli 4) L.D.Gujjar of Kathalli, most respectfully and humbly lay the following request for your kind consideration.

First we will give a short story of our project :-

This said farm project was started in 1942. Govt. elected the present four members to maintain the required livestock and laid down certain rules and conditions to be followed by the four members. The laid down rules are as per G.O.No.6051/36-I of 3-12-1941. 100 acres of Kuran land that is S.No.315 of Galgali and 200 acres of grazing area in Reserved Forest area S.No.256 of Kathalli were allotted for the said farm animals. The four members purchased the live-stock with the direction and advice of livestock department at their own individual expense. It was started from 1942 right earnest. The aim and objects of opening such farm was to give a sort of idea as to the cultivators to have an importance of this hardy breed Hallar animals Hallar animals are found to be more recommended for an average farmer who is almost trouble with the incessant requiring famines in our district. To open such a farm of Hallar pure breed on our site that is where we have mainly Krishna valley type of heavy animals for our draft purposes and which are rather heavy animals for maintenance also we to give one pure breed of this hardy variety of animals for our draft purposes.

So just thought of ~~as~~ opening such a Farm and selecting the good site for grazing and river side Kuran area etc., Govt. then selected our place for such a Farm and started it entrusting the work to us as four partners.

After selecting these present four partners Govt.then getting fulfilled the pre-requisite conditions gave the possession of the above said lands and we also purchased the livestock with the advice of Livestock department and started it and having been taking active interest till now that is for nearly eleven years. The above said lands were given on lease to use by Govt.for a period of fifteen years that is from 1942 to 1957. We have been adhering ~~to~~ the rules and conditions laid down to us and maintaining the livestock in proper condition and submitting our Annual Reports etc., to livestock department concerned and having been taking necessary assistance and guidance from time to time from Livestock Dept.In the Kuran area that is S.No.215 of Galagali we were asked to make equal four divisions and cultivated them for fodder purppposes and we have done so and accordingly we have submitting our annual reports to Livestock Dept.of what we have grass there.

These eleven years we have been carrying on the work of the Farm with utmost care and precaution for Livestock. Now some people who are interested or we do not know for what reasons this Farm that we have done Breach of conditions laid down to us. Such allegations were being made so far by many people and we were almost every year submitting our statements and finding no fault ~~xxx~~ with our working ~~their~~ concerned offices used ~~to~~ drop the matters. Now for these recent allegations our collector visited our Farm in May 1953 and accepting the third membersthat is Shri R.M.Desai we three members were present. We have submitted our statement then as regards the conditions and so. On 1st of June or so that third member that is Shri R.M.Desai returned and he have in writing to Prant Officer to give him an opportunity to submit his statement regarding the work he had done for furtherness of Farm work. Thenecessary papers of details about

to give the statement before him within 15 June. As per that instruction shri Desai submitted his statement to the Asst officer on 10th June last. The copy of the said statement is herewith attached for your perusal.

Now we have been charged of having made breach of conditions in the working of farm by the Collector. The copy of the conditions by which the copy of the conditions bywhich we have to work we have herewith attached for your reference.

Now as per these conditions we wish to show here that we have not done any thing detrimental to Govt. interest or the conditions laid out. As per No.1 conditions we have been careful to preserve the existing trees etc. in the area given to use in Kuran area. We have not done anything damaging to the trees there on so far which is visible on site thereof. As for condition No.2 we are ready to settle by it readily. Here only we wish to allow use to fulfill that lease period of fifteen years. As for condition No.3 we have all purchased the livestock than paying Indivisually and as being than advised by Live stock Dept. As per condition No.4 we have independantly maintaing breeding bulls exclusively for these Miller farm cows and so far we have not even claimed the maintenance charges at Rs.7/- p.m. which Govt. is entitled to give us. Eather we have been asked by Govt. in this respect whether we were ready to accept that monthly maintenance charges when we have paid for the bills.

As per condition No.5 we have so far taken utmost care to maintain the progeny of the cows in the manner being directedly Live stock Dept.we have been advised in this respect by Livestock Dept.and we have followed their advice strictly.

As per condition No.6 we have been following the cropping scheme laid down to use by shri Thole Live-stock Expert, together with the then Mr Sikari of Live-one shri V.L.Kulkarni it seems in [illegible]

their advice we have been annually submitting our crop reports to them[illegible] of what we have grown there and so far we have not received any mistakes found therein by them. The copies of the said annual reports we have been submitting to the Dist.Magistrate of Bijapur and Vidisional Inspector of Cattle Breeding S.D.Dharwar. We do erect the sheds in nonmonsoon seasons on the respective plots and remove the livestock by middle of May as sporadic rains set in and it will be inconvenient for us. No third members Shri Desai has his own S.No.just adjacent to his S.No.215 of Galagali and he maintains his livestock just in his area with Kacha shed in non-monsoon season for convenience of shade of good trees. This he has been doing since the beginning of farm and Livestock. Dept.Officers who have so far visited and seen the livestock being reared in his area just adjacent to this Sy.No.215 of Galagali and he maintains his livestock just in his area with Katcha shed in non-monsoon seasons for convenience of sheds of good trees. This he has been doing since the beginning of farm and livestock Dept.Officers who have so far visit and seen the Livestock being reared in his area just adjacent to this Sy.No. 215 of Galagali have raised no objections and it is for pure fact of having good shade therefore animals that he has been adopting this method. The measure is being collected on site is being used for the cultivable area there only.

As per condition No.7:- We have so far maintained the young livestock uptil it is fit for breeding and thereafter we have disposed of the animals with advice and directions of livestock dept.

No.8 conditions:- This is being very strictly adhere to.

No.9 conditions:- This is also being done correctly and as being shown by Livestock Department.

As per condition No.10:- We have been asked as to whether we have executed the necessary bonds. We would like to say in this matter that we have been executed the necessary prerequisite conditions of the Govt.and then taken the possession of the [illegible] However the fact that we have been handed over the

possession of Govt.lands for farm purposes means that the necessary pre-requisite conditions have been got fulfilled by the then the pre-requisite conditions being taking possession of lands for farm purposes. So now after eleven years this question should not arise at all. If at all it is being scrutinised then the necessary papers should be seen in the respective Revenue offices and seen there in. Once again we would like to state that we have given the required prerequisite conditions fulfilled before taking possession.

Condition No.11:- That we have kept open till today.

Condition No.12:- We have taken the required care of animals and also intimated immediately in case of any epidemics.

Condition No.13 :- We have so far paid no soon we have asked the assessment. We have been paying since a long. In this like to draw your kind attention to the fact that the said S.No.215 of Kalagali has been very lately assessed and that is only last year and we were asked to pay the remaining previous year's assessment. In this connection we would like to draw your kind attention to the fact that the said Sy.No.216 of Kalagali has been very lately assessed and that is only last year and we were asked to pay it out and we have done so immediately. Now also we are ready to pay the remaining previous year's assessment also if asked for the and in the same instance we should like to point out one more thing that the said Sy.No.is being assessed at III acres and 13 guntheas if we are not mistaken. The land is assessed at Rs.113-1-0. Now to show this point, herein is to say that we have been charged with having encroached upon adjoining Govt. Reserved forests area while as we are entitled to only 100 acres. First when we were given the possession of land we were shown the present boundaries only and we would like to know as to what the remaining area out of this Sy.No.215 of Kalagali after giving to us 100 acres

remains in Govt.possession. Asking this is to show that we had not been told that except the area of 6 acres or so where in there are sandle-wood trees we were asked to cultivate the land in equal four parts. Even then we would like to state we have left nearly 10 acres or so on river side of our lands fallow as it cannot be cultivated at all. We were under the impression that the area ~~was~~ given to us is only 100 acres. Then so far means for nearly eleven years the concerned Forest Dept. Officers who have visited this area have never taken any objection~~x~~ that we have encroached upon adjoining Govt.land. ~~We~~ ~~were~~ also though that we were in our limits. Then looking to the Record of rights copy also we have been assessed at 111 acres and 100 acres. That also we paid for two years so far. So that we have done Even if the area is in excess to 100 acres that is purely more, we would like to state that before just starting this Farm Govt.used to auction every year this said Sy.No.215 for cultivation and then also the same boundaries were being permitted and some of the us from these four partners were among those who had taken such auctions then. So looking to these factswe have been doing this cultivation with good faith and no with deliberate intention of encroaching upon Govt.lands. We have herewith attached copy of R.R.for your perusal. As per condition No.14:- We have adhered to cropping scheme chalked out by Live Stock Dept.

As per condition No.16:- We have been doing this sort of shelter on site for cows which have been seen livestock department people so far and who have approved of that type of shed.

As per No.15:- We have endeavoured to catch shilt on river bank. We have planted rows of Lakki etc. Catch shilt on river bank.

As per condition No.17:- We will follow that also.

Having seen all these conditions which we have now laid ~~xxxx~~ before your Honour we hope that we have not done any breach of conditions herein. If Govt.wishes to get verified our work regarding Livestock maintenance, etc. the Livestock ~~e~~ort to Govt. Office should be asked to send their remarks ~~o~~ said Farm. Out District Agricultural Office also

1466 129

might be in a position to enlighten in the matter.

So We earnestly request your Honour to consider our case sympathetically and allow us to fulfill our lease period of fifteen years that is up to 1957 regarding this project.

For the act of which duty bound we remain your Honour.

Ever Yours Faithfully,

Sd/- B.V.Patil.
M.V.Nyamagaudar.
R.M.Desai.
L.D.Gujjar.

Yadhalli,
8-7-1953.

For matter correspondence convenience future correspondence should be made with member Shri R.M.Desai of Yadhalli, district Bijapur, P.O.Galagali and village-Yedahalli.

'True Copy '

Annexure "C"

No.F.A.D.S.E.-473.
Bijapur,9th October 1954.

To

1. Shri Z.K.Desai of Yadhalli.
2. Shri H.V.Patil of Yadhalli.
3. Shri K.V.Patil of Galagali.
4. Shri L.D.Jagir of Yadhalli.

Whereas under Govt.Order G.F.A.D.No.6057/39-1 dated 3-12-1941 a plot of land measuring about 25 Acres out of S.No.215 of the village Galagali of the description mentioned in the Schedule below has been given to you for the purposes of the combined Cattle Breeding and mixed farming project on the terms and conditions mentioned in the agreement executed by you on 22-6-1942;

And whereas it is noticed that you have committed a breach of the condition No.15 of the conditions mentioned in the agreement executed by you, in not endeavouring your utmost to catch silt in the area leased to you along the river and also in the hollows of the flooded area by planting 'Lakki' and have not thus afforded washing by the floods of the river.

Now, therefore, as provided in condition No.19 of the conditions mentioned in the said agreement, you are hereby informed that Govt.has decided to terminate with immediate effect, the lease granted by you and resume the land on the ground that you have committed a breach of condition No.15 of the said agreement.

Schedule.

1) A plot of land of 25 acres situated in the village of Galagali petha Bilgi district bounded on the North by Krishna River. South by way to Gulbal. West by S.No.214, East by S.No.215/2 bearing S.No.215/1 of Galaga-

2) A plot of land situated in the village Galagali petha Bilgi dist.Bijapur bounded on the North by Krishna River. South by way to Gulbal West by S.No.215/1 and East by S.No.215/2 bearing S.No.215/2 and measuring about 25 Acres.

(b) A plot of land situated in the village of Gulbal, Taluka Bilgi,Dist.Bijapur bounded on the :-

North by Krishna River. South by way to Gulbal West by S.No.216/3 and East by S.No.216/1.

(c) A plot of land situated in the village Gulgali, Taluka Bilgi,Dist.Bijapur bounded on the :-

North by Krishna River. South way to Gulbal. West by S.No.216/3 and East by S.No.216/4. Bearing S.No.216/3 and measuring about ~~three~~ 25 acres.

Sd/-(In In Link)

Collector of Bijapur.

Schedule above referred to.

The plot of land situated in the village of Salgali, petha Bilgi district Bijapur, bounded on the

north by on the
South by on the
East by on the
West by on the

bearing Survey No. and measuring about 25 acres and of the following dimensions and of the following dimensions:

This lease is executed on behalf of the Government of Bombay by the Collector of Bijapur District and under his seal of office this day of one thousand nine hundred and forty.

Signed.

(Seal) Collector of Bijapur.

I, Mr.
the aforesaid lessee do hereby accept this lease on the terms and conditions herein mentioned.

Signed by

lessee.

in the presence of

1.

(11) The lessee shall allow inspection of the said plot, the sheds constructed thereon and the cattle and also of the records maintained by him, by the officers of gazetted rank of the Agricultural, Veterinary, and Revenue Dept. of the Government of Bombay.

(12) The lessee shall immediately make a report to the Mahalkari of Sirsi or to the Collector of Kanara about the outbreak of any disease among the cattle and shall also arrange for their treatment or removal or disposal according to the instructions received by him either from the aforesaid officers or from the Veterinary Dept. of the Govt. of Bombay.

(13) The lessee shall pay in respect of the said plot a yearly rent equal to the amount of assessment payable for it; such rent shall be paid on the date fixed for the payment of land revenue in the village.

(14) The lessee shall carry out the cropping scheme drawn up from time to time by the Director of Agriculture, Bombay Province, in respect of the said plot.

(15) The lessee shall endeavour his utmost to catch silt in the area given to him along the river and also in the hollows of the flooded area by planting 'Lantal' and shall thus stop washings by the floods of the river.

(16) For the purposes of affording shelter to the cows and their progeny the lessee shall construct on the said plot a his own expense a kachha shed (with a suitable compound or enclosure) of the type approved by the Live Stock Expert on the site selected for the purpose.

(17) If the lessee who is also a lessee under the joint lease in respect of a plot of land at Yadhalli in connection with the Combined Cattle Breeding and Mixed Farming Project ceases to be a lessee of the land at Yadhalli he shall immediately be deemed to have resigned his office as cultivator without any compensation.

In the lease the words "lessee" shall include the lessee, his heirs, successors, legal representatives, permitted assignees.

KA 123

No. 28131/E

Legal Department,
Bombay Castle (Bombay No.1), 11th December 1954.

To

The Government Pleader,
High Court, Bombay.

Subject:- Special Civil Appln. No. 2422/54
Mallangouda V. Patil
vs.
Collector of Bijapur.

Sir,

With reference to your letter No. 10516, dated the 8th December 1954, on the above subject, I am directed to state that an affidavit of the Collector as revised is handed over to your office to-day. I am also to request you to brief the Advocate General in these proceedings. P.17/C

2. A. & F.D. files No. FLD-1453, No.6057/39-I of 194; loose papers No. FLD-1453/14415 are forwarded herewith.

AGRICULTURE & FORESTS DEPARTMENT (3)
14 DEC 1954
FLD 1453
J 74797

Yours faithfully,

Rane Gurkar
for Secretary to Government.

sep/11/12

Copy forwarded with compliments to the Agriculture and Forests Department for information.

Immediate

No. FAD.SR-279
Collector's Office,
Bijapur, 18-12-1954.

From

Shri H.T.Sadhwani, IAS.,
Collector of Bijapur.

To

The Remembrancer of Legal Affairs,
Secretariat, Bombay.

Subject :- Special Civil Application No. 2422/54
Mallangouda Veerangouda Patil
and others - - - (petitioners)
vs
The Collector of Bijapur
The State of Bombay.

Sir,

In continuation of my report of even No. dated the 6th December, 1954, I am submitting herewith an affidavit (with six spare copies) sworn by Shri V.N.Nadgir the then in charge Sub Divisional Forest Officer, Bagalkot who had inspected the land Survey No. 215 of Galagali and submitted a report on 20/27th March, 1954. If you agree this affidavit may be sent to the Government Pleader, High Court, for filing in Court.

Yours faithfully,
sd/- H.T. Sadhwani.
Collector, Bijapur.

AGRICULTURE & FORESTS DEPARTMENT
Rec'd 20 DEC 19
GOVT. LIB. No. 78280
SPECIAL No.

No. FAD.3R-279 Bijapur, 18th December, 1954.

Copy submitted to :-

1) The Secretary to Government A and F.D. Bombay.
2) The Secretary to Government R.D. Bombay.
& Copy to :
3) The Government Pleader, High Court, Bombay W.Cs.

Collector, Bijapur.

137 153

No. FAD.SR-279
Collector's Office,
Bijapur, 21-12-1954.

From

Shri H.T.Sadhwani, IAS.,
Collector of Bijapur.

To

The ~~Secretary~~ R.L.A.,
Secretariat, Bombay.

AGRICULTURE & FORESTS DEPARTMENT
Regd No. FLD 1453
Regn No. J-79456

Subject :- Special Civil Application No. 2422/54

Mallangouda Veerangouda Patil and others : Petitioners

Vs.

The Collector of Bijapur
The State of Bombay } Opponents.

Sir,

In continuation of my report of even No. dated the 17th December, 1954, I am submitting herewith an affidavit with six spare copies thereof sworn by Shri P.C.Kurein Sub Divisional Forest Officer, Bagalkot, who was asked to visit the suit land, Survey No. 215 of Galgali with a view to have an idea of the existing position regarding planting of Lakki trees.

If you agree, this affidavit may be sent to the Government Pleader, High Court, Bombay, for filing it in Court. The hearing is now fixed on the 10th January 1955.

Yours faithfully,

sd/-
Collector,Bijapur.

No. FAD.SR.279 Bijapur, 21st December, 1954.

Copy submitted to :-

1) The Secretary to Government, A and F.D. Bombay.
2) The Secretary to Government, R.D. Bombay.

Copy F.W.Cs. to the Govt. Pleader, High Court, Bombay.

Collector, Bijapur.

154/139

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

Special Civil Application No.2422/1954.
Under Article 226 of the Constitution of India.

1. Mallangouda Veerangouda Patil
Nyamangoudar Agriculturist of
Galagali,petha Bilgi,dist.Bijapur.

2. Ramanagouda Venkatagouda Patil,
Agriculturist of Yedhalli,petah
Bilgi dist.Bijapur.

3. Rachappa Mallappa Desai,
Agriculturist of Yadhalli,
petha Bilgi,dist.Bijapur.

4. Lilachand Dipachand Gujar,
Agriculturist of Yedhalli,
petha Bilgi,district Bijapur. ... Petitioners.

Versus.

1) The Collector of Bijapur, Bijapur.

2) State of Bombay. ... Opponents.

AFFIDAVIT.

I, Mathail Puthenpurakal Cheryan Kurien, age 54, Government service, being Sub-Divisional Forest Officer, Bagalkot Sub-Division,Bggalkot, camping to-day at Bijapur do hereby on solemn affirmation state as under :-

(1) I am Sub-Divisional Forest Officer at Bagalkot Sub-Division. Under instructions from the Collector of Bijapur, I inspected survey No.215 of Galagali in Bilgi petha on 18-12-1954 with a view to see if the lessees have endeavoured to attempt to catch silt in the area given to them out of Survey No.215 along the river and also in the hollows of the flooded areas by planting Lakki so as to stop washing away by the floods of the river. I found that the lessees have not endeavoured to catch silt in the area given to them along the Krishna river and in the hollows of the flooded area by planting Lakki and that they have not stopped washing by the floods of the river. There are no Lakki plants standing or planted along the river and in the hollows of the flooded area along with the edge of Survey No.and the edge of the river. In the beds of the river which,however, does not form part of the area of Survey No.215, I found a few scattered Lakki plants in the area of less than half an acre in the bed of the river

(P.T.O.)

The Lakki plants noticed by me in the bed of the river as stated above were about a dozen. They appear to be not planted by any body but appear to be of natural growth. No Lakki plants appear in or at the edge of Survey No.215, nor in any place where they were required to be planted by the lessees to prevent erosion.

What is stated above is true according to my personal knowledge and belief.

Bijapur,
20-12-1954.

Sd/- P.C.Kurien.
Sub-Divisional Forest Officer,
Bagalkot Division, Bagalkot.

Solemnly affirmed before me by the deponent named Shri Mathail Puthenpurakal Cheryan Kurien, Sub-Divisional Forest Officer, Bagalkot, whom I personally known.

Bijapur,
20-12-1954.

Sd/-A.J.Darugar,
Sub-Divisional Magistrate,
Bijapur City.

urgent.

156

No. FAD.SR-279
Collector's Office,
Bijapur, 30-12-1954.

The Prant Officer, Jk. Dn.,
Jamkhandi.

Subject :- S.No. 216 of Galgali, Petha Bilgi
Resumption of - -
Special Civil Application No. 2422 of 54 under Article 226 of the Constitution of India.
Mallangouda Veerangouda Patil and others. ... Petitioners.

Vs.

The Collector of Bijapur.
The State of Bombay. ... Opponents.

Reference: Your No. FAD.SR. 5 dated 18-12-1954 addressed to the Mahalkari, Bilgi, and copy endorsed.

The action taken by you to approve the proposal of the Mahalkari, Petha Bilgi, to appoint two more persons as watchmen on daily wages each of rupee one only to scare away the birds and to protect the standing crops in Survey No. 215 of Galgali is approved. The source from which the expenditure is to be met will be communicated later on.

AGRICULTURE & FORESTS DEPARTMENT
Date - 3 JAN 1955
FILE No. S-30 FD 1463
SERIAL No. K-249 (38)

sd/- H. T. Sadhwani,

Collector, Bijapur.

Case recd in E br on 11/1/55

No. FAD.SR. 279 Bijapur, 30th December, 1954.

Copy with a copy of the P.O's letter under reference submitted to :-

1) The Government, A and F.D. Bombay.
2) The R.L.A. Secretariat, Bombay.

See (those?) 4/1

P.L. 3-1-55.

Collector, Bijapur.

Vide p. 5 N/A

F.A. 11-1-55.

57/143

No.FAD.SR-5. Office of the Prant Officer,
Jk.Dn.,Jamkhandi. 18-12-1954.

The Mahalkari Bilgi.

Sub:- S.No.215 of Galagali,petha Bilgi.
Resumption of ---

Ref:- Your No.LWL-275 dated 13-12-1954.

Your proposal to appoint the two more persons to scare away the birds and thus to proect the standing crops in S.Nos.215/1, 215/2, 215/3 and 215/4 of Galagali is approved. Those men should be engaged on daily wages each of Re.1/- only. The Collector is being requested to point out the source from which the mazdoor may be paid.

Sd/-S.D.Manjrekar,
Pramt Officer,Jamkhandi Dn.
Jamkhandi.

Copy with a copy of the Mahalkari's letter under reference submitted to the Collector of Bijapur.

2. Two watchmen onk daily wages of ~~of~~ Rs.1-8-0 each have already been engaged from 23-10-54 i.e. from the date of resumption of the land to guard day and night the standing crops in the above lands. As further requested by the Mahalkari he is directed to appoint two more persons to scare away the birds and to protect the standing crops in the aforesaid land at Re.1/- per day. The Mahlkari requests to point out the source from which the wages of the mazdoors may be paid. It is therefore requested to pass early orders on this point.

Sd/- S.D.Manjrekar,
Prant Officer,Jk.Dn.,Jamkhan

Copy of Mahalkari Bilgi's letter No.LWL-275 dated 13-12-54 to the Prant Officer,Jk.Dn.,Jamkhandi.

Sub:- Lands: Bijapur;Yadhalli and Galagli petha Bilgi. Lease of at ---

" The enclosed report from V.Os. of Galagali may kindly be perused. The Village Officers report that six more watchmen to watch the crops standing on the land are necessary as there would be birds trouble hereafter. Two watchmen have already been engaged with effect from 23-10-1954. Two more watchmen on Coolie Basis i.e. in all four coolies will be quite sufficient for the purpose. I, therefore, propose that sanction to appoint two more watchmen may kindly be accorded, immediately.

I may also kindly be informed the source from which I should pay the charges of the coolies engaged for watching the crops. I have not paid any thing so far to two watchmen already engaged on the date on which the possession of the land was taken over by the Prant Officer.

Early orders are solicited in the matter."

159

I shall, therefore, be grateful if you kindly let me have Government instructions by return of post positively to enable me to take further action in the matter. I may be informed whether possession is to be refused to Shri M.V. Patil and others.

Yours sincerely,

(H. T. Sadhwani)

Shri S.G.Walawalkar,
Under Secretary to Government,
A and F.D. Bombay.

HTS/M.23.1

Immediate

Confidential

160 147

No. FAD-SR-279
Collector's Office,
Bijapur, 27-1-1955.

Dear Shri Walawalkar,

Please refer to the correspondence in respect of Civil Application No. 2422/1954 (Shri M.V.Patil and others vs. The State of Bombay) regarding resumption of lease of survey No. 215 of Galgali, Bilgi Petha, District Bijapur, ending with this office No. FAD.SR.279 dated 22-1-1955, by which a copy of the telegram addressed by me to the Government Pleader, High Court, was forwarded to xxx and instructions were sought for disposal of the standing crops by auction after obtaining permission of the Bombay High Court as the Bombay High Court had issued an injunction against Government.

On 25-1-1955 Shri M.V.Patil and Shri R.V.Patil made an application to me stating that the High Court after hearing the parties on 18-1-1955 directed Government to restore possession to the applicants and they have stated in the application that there is standing crop in the land and it has deteriorated and still is deteriorating for want of care and the jowar crop is ready for harvesting and they requested that the possession should be handed over to them. The applicants were asked by me to produce a certified copy of the order of the High Court and now in the meanwhile I have to-day received a copy of the letter No. 675 dated 24-1-1955, from the Government Pleader, High Court, addressed to the Secretary to Government, Legal Department (copy enclosed) from which it would appear that in this matter the High Court has made the Rule absolute from which it would seem to follow that the possession has to be restored to Shri M.V.Patil and others.

Immediate

The present position is that 4 watchmen have been appointed to watch the crops as the crop is considerable. The Mahalkari of Bilgi has solicited immediate orders for harvesting the crop by appointment of special staff for the purpose as he says that the crop is ready for harvesting. It appears true that unless harvest is immediately made, crop will be damaged and will deteriorate

E. T. Br. 28.1.

28/

FLD 1453
E. 7836
(1) 28/1.

161 169

Copy of letter No. 675 dated the 24th January, 1955, addressed by the Government Pleader, High Court, Bombay to the Secretary to the Government of Bombay, Legal Department, Bombay, in connection with Special Civil Application No. 2422/54.

With reference to your letter No. 27168/E dated 30th November, 1954, on the above subject, I have ~~to inform~~ the honour to inform you that the case noted above was heard by the High Court on 18-1-1954 when the following order was passed :-

"Rule absolute with costs"

As soon as the judgment will be ready, the same will be forwarded to you.

---

(5)

D.O. No. FLD1453/7336-E,
A. and F.D., 162
Secty.
B'bay 29th Jan 1955

Ref. your d.o. file No. FAD-SR-279 dt. 27.1.1955 reg. ~~revised~~ Civil Application No. 2222/1954 (Shri. M.V. Patil and Others Vs. the State of Bombay).

The orders of Govt. will be issued after the H.C. judgment is read and considered.

Yours

Shri. H.T. Sadhwani, I.A.S.
Collr. & Dist. Magte.
Borjaipur.

(S.G. Walawalkar)

29.1.55.

153

163

Telegram State Express

To : Government Pleader High Court

Place : Bombay

Reference telegram 22nd instant regarding Civil Application No.2422/1954 M.V.Patil VS State (.) Wire result of hearing

Collector

Bijapur,
25-1-55.

Sd/-G.B.Shetti,

For Collector Bijapur.
Bijapur, 25-1-1955.

AGRICULTURE & FORESTS DEPARTMENT
Date 28 JAN 1955
FILE No. EF 1389
SERIAL No.

No.F.A.D.S.R.-279.

Post copy forwarded w.cs. to the Government Pleadder, High Court, Bombay in confirmation.

Copy submitted to the 1) Secretary to Govt. Agriculture and Forests Dept. Bombay and (2) Legal Department, Bombay in continuation of even No. dated 22-1-1955.

Copy to Prant Officer, Jamkhandi Dn. and Mahalkari Bilgi.

P11/W, For Collector, Bijapur.

155
164

Confidential
Immediate

No. FAD.SR.279
Collector's Office,
Via Bijapur, 1- 2-1955.

Dear Shri Walawalkar,

6751/E

Please refer to your D.O. letter No. FLD.1453/7336-E dated the 29th January, 1955, regarding Civil Application No. 2422 of 1954 (Shri M.V.Patil and others vs. State of Bombay).

I find from your D.O. that the orders of Government will be issued after the High Court judgment is received and considered by Government It may take considerable time for the High Court judgment to be available for Government's consideration. In the meanwhile, as I have already informed you, the crops are ready for harvesting and are deteriorating and some decision has got to be taken about this. Otherwise Government may be held liable for any loss. I may also bring to your notice that since the High Court has ordered the restoration of possession, any delay in obedience of the High Court orders may be interpreted as contempt of Court. I will be grateful if this aspect of the matter is considered and necessary instructions issued to me immediately.

FLD 1453
E. 9319
(E) 9 2/2/55

Immediate

Yours sincerely,

(H. T. Sadhwani)

Shri S.G.Walawalkar,
Addl. UnderSecretary to Govt.,
Agriculture and Forests Dept.,
Bombay.

Gll/N.

Addl. Govt. Solr. how the case has since been decided + report time on 3-2-55.

J.A. 2.2.55.

M. 1/2.

State Telegram Express 157

165

To

The Collector, Bijapur.

No. FLD 1453/9319-E Ref. your

do. No. ~~FAD.SR.279~~ 1557/C dt. 1.2.1955. Restore

possession of property to petitioners forth.

Orders follow

Secagri

RECEIVED
3/2

A. and F.D.

B.C. 3rd Feb, 1955.

As to Govt
~~A-FFD~~
3/2/55

Immediate Letter

159
166

To

The Colls. of Bijapur.

No. FLD 1453/9319-E B.C. 4th Feb. 1955

Ref. correspondence resting with Govt. telegram of even number dt. 3rd Feb. 1955 reg. civil Application No. 2422/1954 in respect of the applicant Shri M.V. Patil and others for resumption of S. No. 215 of Galgali, Petha Bilgi, distt. Bijapur.

The crop can not be harvested by Govt. officer. In view of the High Court's judgment sent by you with letter No. 947 dt. 31.1.55. from the Govt. Pleader, please take immediate steps to restore the possession of the property to the applicants. After restoration of the property to the applicants, you are requested to take necessary action in connection with the breach of the terms of the lease by the applicants in accordance with the provisions of the B.L.R. code particularly Sec. 79A and Sec. 202 thereof.

By order etc.

A.U.S. to Govt.

Copies forwarded to:-

The C.C.F.

The L.D. with ref. to his U.O.R. No. 2497/E dt. 2.2.55.

* to be filled
Δ P. 157/c

↳ P. 1 of the bundle of Govt.

Keep copies of 1-20 of D.H.C.

161 1/N 167

Legal Deptt.

Please see the judgement of the High Court dated 18-1-1955 in Sp. C.A.No.2422 of 1954 in the matter of Mallangouda V.Patil vs. the Collector of Bijapur. The High Court has held that the lease is subject to the provisions of the Bombay Land Revenue Code which Governs the lease in this case and that before possession is taken under the Code the conditions to be complied with are (1) an order by the Collector under sec. 79A summarily evicting the person wrongfully in possession of the property, (2) a statutory notice required under sec. 202 is given and (3) if there is disobedience by the person upon whom the notice is served the authorities can physically remove the person in possession of the land.

2. It does not appear necessary to file an appeal in this case. In accordance with the judgement A.&.F.D. may be requested to immediately to hand over the possession of lands to the petitioners and take action as indicated in the High Court's Judgement. The Collector cannot be authorised to harvest the crop. The A.&.F.D. pps. kept below may be returned with these papers.

Id/- 1/2 9d/- 4/2 9d/- 1/2

R.A.
u.o.r to A.&.F.D. No.2497/E, dated the 2-2-55.

A.&.F.D./E.

Submitted.

2. Pl. see o.n. of today's date on the linked case. These pps. may be retd. u.o. to L.D. after keeping copies of the H.C. judgement and the L.D. note overleaf. Presumably

* with A & F.D. file 1453/70305

L.D. ur No. 2497
E. 9380
(20) 93.2.55

that Deptt. will take action on 'A' of the judgement.

sdl- 3/2/55 Id/- S.G.W. 3.2.55

sdl- 32

u.o.r to L.D., dated the 4-2-55 9

3/2/55

"D'CRUZ"
5.2.

163 1/c 169

Telegram State Express

To

Government Pleader High Court.

Place Bombay

Reference telegram 22nd instant regarding Civil Application No.2422/1954 M.V.Patil VS State (.) Wire result of hearing

Collector

.....

Bijapur, 25-1-55

Sd/-G.B.Shetti,
x x x x

For Collector, Bijapur
Bijapur, 25-1-1955

No.F.A.D.S.R. 279

Post copy forwarded w.cs. to the Government Pleader, High Court, Bombay in confirmation.

Copy submitted to the 1) Secretary to Govt. Agriculture and Forests Dept. Bombay and (2) Legal Department, Bombay in continuation of even number dated 22-1-1955

Copy to Prant officer, Jamkhandi Dn. and Mahalkari Bilgi.

Sd/ x x x
for Collector, Bijapur.

7/2/55

165 170

IMMEDIATE

No.947
Office of the
Government Pleader, High Court,
Bombay, D/31st January, 1955.

From

Shri H.M.Choksi, B.A.(Hons.)LL.B.,
Government Pleader, High Court.

To

The Secretary to Government
Legal Department,
Bombay.

Subject:- Special Civil Application No.2422 of 1954
Mallangouda V.Patil
V/S
Collector of Bijapur.

Sir,

With reference to your letter No.28556/E, dated 16th December, 1954, on the above subject, I have the honour to forward herewith an uncertified copy of high court judgement in the above mentioned petition.

Yours faithfully,

Sd/ V.S.Desai

For Government Pleader, High Court.

Express Delivery.
No.948

Copy along with an undertified copy of High Court Judgement forwarded with compliments to the Collector of Bijapur for information and neeessary action with reference to his wire dated the 22nd January, 1955.

7/2/55

JUDGMENT RECORDED BY THE HIGH COURT IN SPECIAL CIVIL APPLICATION NO. 2422 of 1954, in the matter of Mallangouda Veerangouda Patil and others versus The Collect and another.

Mr. V.M. Tarkunde for the Petitioners.

Advocate General with Mr. V.S.Desai for the Opponents.

CORAM : Chagla C.J. and Dixit J.

Tuesday, 18th January 1955.

ORAL JUDGMENT : (Per Chagla C.J.) -

The Government had a project known as the Combined Cattle Breeding and Mixed Farming Project, and in order to carry out this project on the 22nd April 1942 Government executed four leases in favour of the four petitioners giving them possession of 100 acres for a period of fifteen years in order to carry out this project. The lease laid down various conditions which had to be complied with by the petitioners and the petitioners had to furnish reports every year to Government to satisfy them that they were carrying out this project, and such reports were furnished up to the end of 1952. On the 27th May 1953 the Collector of Bijapur visited the site and asked the Local Circle Inspector to take statements from the petitioners as to whether they had been complying with the conditions of the lease. Becoming apprehensive by reason of the visit of the Collector, the petitioner made a representation to Government on the 8th July 1953 pointing out that they had loyally carried out all the conditions of the lease. On the 13th October 1954 Government passed an order terminating with immediate effect the leases executed in favour of the petitioners and in the order it was stated that the petitioners had committed a breach of condition 15 of the lease. This order was served upon the petitioners on the 19th October 1954. As soon as the order was served, the petitioners made up their mind to present a petition to this Court. On the 18th October 1954 the Mahalkari of Bijapur served a notice upon the petitioners calling upon

them to deliver possession of the land to the Circle Officer of the Bilgi Circle on the 28th October 1954. The petitioners' contention is that inasmuch as the Revenue Authorities knew of the intention of the petitioners to approach the High Court, instead of waiting till the 28th October 1954, behind the back of the petitioner possession was actually taken on the 23rd October 1954. It may be stated that Government has not deined the fact that possession in fact was taken on the 23rd October 1954 and no explanation has been forthcoming as to why possession was taken on the 23rd October instead of the 28th October as mentioned in the notice of the Mahalkari. The contention of the petitioners is that the taking of possession by the Government of the land leased out to the petitioners is not by authority of law.

Turning to the lease, condition 15 obliges the lessee to plant Lakki plants on the bank of Krishna river in order to prevent erosion, and the contention of Government is that it is this condition which has been broken by the petitioners. Now, clause 10 of the lease provides that the lessee shall execute a bond for Rs. 500 and shall procure a surety for the like amount for the proper observance of the terms and conditions of the lease, and in the event of his not observing all the terms and conditions of the lease, the full amount of the bond or such part thereof as the Collector may determine shall be forfeited to the Government and the said plot shall be resumed by the Government without any compensation. It is under this clause that the Government has exercised its right to terminate the lease.

Now, what is contended by Mr. Tarkunde is that there is no provision in the lease providing for adjudication by Government that a certain term of the lease has not been carried out. And in the absence of any such provision

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the adjudication can only be by a civil Court and not unilaterally by Government. If we were to go merely by the terms of clauses 10 and 15, the position undoubtedly would be as Mr. Tarkunde contends, because although the power is given to Government to resume the land and to terminate the lease, the lease does not provide that it is for Government to determine and decide that a particular term of the lease has been broken. There are leases executed between Government and the citizen which do provide that it would be for the Government to decide and determine whether a certain term has been complied with or not. But this lease does not so provide. Mr. Tarkunde also seems to be right that the rights of Government are contractual rights under the lease and the Government is in no better position than a landlord who terminates the lease because his tenant has committed a breach of one of the convenants, and Mr. Tarkunde contends that as in the case of any other landlord Government can not take the law into its own hands and take possession of the property, the subject matter of the lease, but it must go to a civil Court, establish the breach, and then get an order for possession.

Now, in the preamble to the lease it is stated that the lease is subject to the provisions of the Bombay Land Revenue Code and the Rules made thereunder, and it is rather important to note that the lease allows the lessee to occupy the land for the purpose of the Combined Cattle Breeding and Mixed Farming Project. Therefore this is not a case of an ordinary lease under the Transfer of Property Act where there is a demise of land and a particular interest in property is vested in the lessee. The only right that the petitioners have under the lease is to occupy the land under the provisions of the Bombay Land Revenue Code. This position is made clear also by the Crown Grants Act of 1895, which Act provides by sec. 2

that the Transfer of Property Act shall not apply to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the Crown to, or in favour of, any person whomsoever; and section 3 of that Act provides:

> "All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding".

Therefore we must construe this lease not in accordance with the provisions of the Transfer of Property Act, but according to the tenor of the lease itself, and the tenor of the lease makes it clear that the lease has been made subject to the provisions of the Bombay Land Revenue Code and the rules made thereunder.

Therefore we must turn to the Bombay Land Revenue Code in order to decide that the rights of Government are with regard to this land which has been leased to the petitioners. Section 68 provides for the occupant's rights, and we agree with the Advocate General that the position of the lessee in this case is that of an occupant under section 68. Section 68 provides:

> "An occupant is entitled to the use and occupation of his land for the period, if any, to which his tenure is limited, or if the period is unlimited, or a survey settlement has been extended to the land, in perpetuity conditionally on the payment of the amounts due on account of the land revenue for the same, according to the provisions of this Act, or of any rules made uhder this Act, or of any other law, for the time being in force, and on the fulfilment of any other terms or conditions lawfully annexed to

his tenure."

Therefore, the right of the petitioners to continue as occupants depends upon the fultilment by them of the terms annexed to their tenure, which terms are to be found in the lease executed by Government. Then we turn to section 79A and that section gives statutory power to the Collector summarily to evict any person unauthorisedly occupying or wrongfully in possession of any land to the use or occupation of which by reason of any of the provisions of this Act he is not entitled or has ceased to be entitled. Again, the Advocate General is right when he contends that when the Government terminated the lease, the lessees were wrongfully in possession of the land and that the Collector had the statutory power summarily to evict the petitioners.

Now, the narrow question that we have to decide on this petition is whether the petitioners have been wrongfully in possession of the land, their lease having been terminated by Government, and whether any order has been passed by the Collector under section 79A summarily evicting them. It is rather significant to note that the Collector in this case has made no affidavit. The affidavit is only made by the Assistant Secretary to Government and in that affidavit there is no reliance on section 79A at all. As far as the affidavits go, it is not the case of Government that pursuant to the powers conferred upon the Collector under section 79A the petitioner has been summarily evicted by him. When we turn to the order of the 9th October 1954 which is relied upon by the Advocate General as an order under section 79A, it is clear that that order is not an order by the Collector summarily evicting the petitioners. That is an order by Government terminating the lease of the petitioners. It is only after that order was passed

that the possession of the petitioners became wrongful and after the possession became wrongful the Collector should have exercised his statutory power under sec. 79A summarily to evict the petitioners. That power was never exercised by the Collector. After the Collector exercises his power under section 79A it is incumbent upon him under section 202 to give a statutory notice. The provisions of section 202 are mandatory and that senction provides:

"Whenever it is provided by this, or by any other Act for the time being in force, that the Collector may or shall evect any person wrongfully in possession of land, such eviction shall be made in the following manner, viz:-

by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

if such notice is not obeyed by removing or deputing a subordinate to remove any person who may refuse to vacate the same .... "

Therefore, before possession can be taken under the Land Revenue Code, the conditions to be complied with are, first, an order by the Collector under section 79A summarily evicting the person wrongfully in possession of property, the second condition is the statutory notice required under section 202, and the third condition is disobedience by the person upon whom the notice is served of that notice, and it is only when the notice is not obeyed that the power is given to the authorities physically to remove the person in possession of the land

Now, apart from the fact that there is no proper order by the Collector under section 79A, there is not even a statutory notice under section 202. There is only an intimation by the Mahalkari given on the 18th October, 1954, that possession will be taken on the 28th October, 1954. But the notice under section 202 can only be given

by the Collector or at best by the Mamlatdar if the power has been delegated to him, and the Advocate General does not contend that the Mahalkari has been authorised under section 202 to give the statutory notice. Therefore it is clear that possession was taken by Government in the absence of any order by the Collector of summary eviction and in the absence of a statutory notice required under section 202. Mr. Tarkunde also points out and rightly that the order under section 79A must be by the Collector and not by Government, because a right of appeal is given to the person against whom the order of summary eviction has been made under section 203. When a Collector makes an order under section 79A the person affected by that order can go to Government under section 203. But if here the Government itself makes the order, the right of appeal contemplated under section 203 is denied to the petitioner.

The Advocate General then contends that if there is a breach and if the Government can decide whether there is a breach or not and if the lease has been lawfully terminated, no prejudice has been caused to the petitioner if possession has been taken from him, even assuming there has been some irregularity in the taking of possession. We cannot possibly countenance that argument. When a statute confers upon the authorities drastic power of summary eviction, the Court must insist that there is a proper compliance with all the conditions laid down by the statute. Government have been given the power to take away property from a citizen without resort to the ordinary Courts of the land. Undoubtedly there is a policy behind such a provision in the law. The Government can not be expected to resort to the dilatory methods of an ordinary suit before it can get possession. But if the law confers these wide powers, the law equally requires that there must be a proper compliance with all the conditions laid down in the statute before the power.

can be exercised. In this case we find that there is neither a proper order of summary eviction by the Collector under section 79A, nor is there a statutory notice required under section 202, and therefore we must come to the conclusion that the possession taken by Government was not in accordance with law and it was not by authority of law, and therefore the necessary writ must be issued against Government.

Mr. Tarkunde also argued that under section 79A it was for the Collector to decide that the petitioners were wrongfully in possession of the land and in order to decide that it was for him to decide that the petitioners had committed a breach of one of the conditions of the lease. As against this it may be urged that the power to terminate the lease was with Government and the Government having terminated the lease the petitioners were in wrongful possession. True, it would be for the Collector to decide that the petitioners were in wrongful possession, but the very fact of the termination of the lease by Government would make the possession of the petitioners wrongful. But in this case it does not appear that the Collector has applied his mind to the question at all or has made any order contemplated by section 79A. The order of the 9th October 1954 is by Government and the Government seems to have directed the Collector to take possession from the petitioners.

We therefore direct that the opponents must restore to the Petitioners the possession of the property the subject matter of the leases. Opponents must pay the costs of the petition.

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Belgaum
No. 548 of 1955

IN THE HIGH COURT OF JUDICATURE, APPELLATE SIDE, BOMBAY.

Special Civil Application No. 2422 of 1954.

(Under Article 226 of Constitution of India)

1) Mallangouda Veerangouda Patil Nyamavangouder agriculturist of Galagali, Petha Bilgi, and three others. } Petitioner Represented by Mr. V.M.Tarkunde, Advocate.

Versus.

1) The Collector of Bijapur, Bijapur.
2) The State of Bombay. } Opponents

AGRICULTURE & FORESTS DEPARTMENT
Date 24 FEB 1955
FILE No. FLD 1452
SERIAL No. E 15668 (13)

To

2. The State of Bombay.

(Copy to be served upon the Secretary to the Govt. of Bombay, Agriculture & Forest Dept, Secretariate, Bombay).

Whereas a Rule nisi was issued by this Court on the 8th day of November 1954 for the Respondents to show cause why (a) The Record and Proceedings relating to the case should not be called for from the Opponents; (b) The Order No. F.A.D.S.R. 279 dated 9th October 1954 should not be quashed by an appropriate writ or order; and (c) The opponents should not be directed by an appropriate writ or order to restore possession of lands bearing S. No. 215 situate at Galgalli in Bilgi Petha District Bijapur to the petitioners ;

And whereas upon hearing Mr. V.M.Tarkunde, Advocate for the Applicant and the Advocate General and Mr. V.S.Desai, The Assistant Government Pleader, for the Opponents, the Court passes the following order:-

" For the reasons stated in the accompanying judgment the Court directs that the Opponents must restore to the petitioners the possession of the property, the subject matter of

J.A. (Thr. Supt.) 25-2-55.

of the leases.

Opponents must pay the costs of the petition".

Witness M.C. Chagla, Esquire, Chief Justice at Bombay, aforesaid this 18th day of January One thousand Nine hundred and fifty-five.

By the Court,

Agarwal 23-2-55

for Deputy Registrar.

The 23rd day of February 1955.

Sd/- 22/2

Please see p177/c

* To be returned please.

Judgment
Copy of ~~Interlocutory~~ No 548 of 1955

(Below ~~application~~ dated the 23rd Feb; 1955

from ~~Shri~~ the Regr. High Court, Bombay, reg. Civil Application No 242 of 1954 in respect of the applicant ~~Shri~~ M.V. Patil and others for resumption of S.No. 215 of Galgali, Petha Bilgi, dist. Bijapur)

No. ~~of~~ FLD 1453/15868-E
Agriculture and Forests Department.
Bombay Castle, 2nd Mar. 1955

Immediate

Forwarded to the ~~Collr.~~ Collr. of Bijapur for ~~information~~ necessary action in continuation of G. ~~Endt~~ No FLD 1453/9319-E dt: 4-2-55 ~~&~~ P.S.R./C

2 The ~~Collr~~ is requested to ~~ascertain the cost of petition and appeal~~ Govt. for resumption of the same for the expenses involved.

arrange for payment of costs of the petition after obtaining

By order and in the name of the
Governor of Bombay,

Assistant Secretary to the Government of Bombay,
Agriculture and Forests Department.

ISSUED
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(Below copy of Judgement No.548 of 1955, dated the 23rd February, 1955, from the Registrar High Court, Bombay, regarding Civil Application No.2422 of 1954 in respect of the applicant Shri M.V.Patil and others for resumption of Survey No.215 of Galgali, Petha Bilgi, District Bijapur.)

Immediate.

No.FLD.1453/15668-E.
Agriculture and Forests Department.
Bombay Castle, 2nd March, 1955.

Forwarded to the Collector of Bijapur for necessary action in continuation of Government Letter No.FLD.1453/9319-E, dated the 4th February, 1955.

2. The Collector is requested to arrange for payment of costs of the petition after obtaining Government sanction for the expenditure involved.

By order and in the name of the
Governor of Bombay,

Assistant Secretary to the Government of
Bombay, Agriculture and Forests Department.

2.
N.J.2/3

Bombay

No.548 of 1955.

181 182

IN THE HIGH COURT OF JUDICATURE, APPELLATE SIDE, BOMBAY.

Special Civil Application No.2422 of 1954.

(Under Article 226 of Constitution of India)

1) Mallangouda Veerangouda Patil Nyamavangoudar agriculturist of Galagali, Petha Bilgi, and three others. } Petitioner Represented by Mr.V.M.Tarkunde Advocate.

Versus.

1) The Collector of Bijapur , Bijapur.
2) The State of Bombay. } Opponents.

To

2. The State of Bombay.

(Copy to be served upon the Secretary to the Government of Bombay, Agriculture and Forests Department, Secretariat,Bombay)

Whereas a Rule nisi was issued by this Court on the 8th day of Novem ber 1954 for the Respondents to show cause why (a) The Record and Proceedings relating to the case should not be called for from the Opponents; (b) The Order No.F.4.D.S.R.279 dated 9th October 1954 should not be quashed by an appropriate writ or order; and (c) The opponents should not be directed by an appropriate writ or order to restore possession of lands bearing S.No.215 ~~situate~~ situate at Galgalli in Bilgi Petha District Bijapur to the petitioners;

And whereas upon hearing Mr.V.M.Tarkunde, Advocate for the Applicant and the Advocate General and Mr.V.S.Desai, The Assistant Government Pleader, for the Opponents, the Court passes the following order:-

"For the reasons stated in the accompanying judgment the Court directs that the Opponents must restore to the petitioners the possession of the property, the subject matter of the leases.

Opponents must pay the costs of the petition".

Witness M.C.Chagla, Esquire, Chief Justice at Bombay,

aforesaid this 18th day of January One thousand Nine hundred and fifty-five.

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By the Court,

Sd/-

for Deputy Registrar,

High Court Seal.

The 23rd day of February, 1955.

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Immediate

No.
Collector's Office,
Bijapur, 24-2-1955.

From

Shri H.T.Sadhwani, IAS.,
Collector of Bijapur.

To

The Secretary to Government,
A and F.D. Bombay.

AGRICULTURE & FORESTS DEPARTMENT
RECEIVED 1 3 1955
FILE No. RLD-1453
SERIAL No. E 1681D

Subject :- Special Civil Application No. 2422/1954 Shri M.V.Patil and others vs. State of Bombay - resumption of survey No. 215 of Galgali, Petha Bilgi.

Reference: Govt. A and F.D.No. RLD.1453/9319-E dated 4th February, 1955.

Sir,

According to the telegraphic instructions dated 3rd February, 1955, received from Government, possession of the leased land Survey No. 215 of Galgali, Petha Bilgi, with the standing crops thereon has been restored to the lessee petitioners on 9th February, 1955.

Instructions have now been received under Govt.A.F.D letter referred to above to take, after restoration of the property, necessary action in connection with the breach of the terms of the lease by the applicants in accordance with the provisions of the Land Revenue Code, particularly under section 79A and 202 thereof.

In order to ensure that no procedural irregularities occur again in the termination of lease and in the resumption of possession, the D.G.P. was consulted about the proper action to be taken in the case now. I enclose a copy of the note prepared by him in this matter as also the draft of the order prepared by him which he proposes should be passed by the Collector. I shall be grateful if early orders are passed by Government on the following points :-

1) Whether notice of Government's intention to determine the lease should again be given to the lessees, and

2) Whether on the basis of the termination of the lease by Government as made in this case, an order under Section 79A, Land Revenue Code may be passed by the Collector ?

I would in this connection invite Government's attention to the last but one paragraph of the High Court judgment from which it would appear that a clear indication has not been given on the point as to whether the High Court thinks that the question whether a breach of the lease terms has been committed or not should be decided by Government or by the Collector.

Government may also consider whether it is at all necessary to give an opportunity to the lessees to show cause against the proposed action of Government to terminate the lease. For otherwise, it may again be contended at a later stage that the lease was terminated unilaterally without giving an opportunity to the lessees of being heard and thus it may be alleged that the principles of natural justice were violated. On receipt of Government orders, further action will be taken in this case. The

draft order proposed by the District Government Pleader under section 79A may also be approved.

Yours faithfully,

Collector, Bijapur.

HTS/M.24.2

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Note by District Government Pleader.

A draft of the order is ~~xp~~ put up. This order is to be served on each of the lessees. There-after notice under Sec.202 L.R.C. should be given.

2. But before proceeding to take action as in para 1 above, the following points require to be considered :-

a) Notice of Govt's intention to determine the leage and resume the land on the ground that the lessees have committed a breach of condition No.15 has been given by the Collector under his No. FAD.SR-279 dt 9/13-10-1954. Thereafter possession was taken from the lessees . The lessees approached the High Court and the High Court directed restoration of possession on the ground that there is no order under Section 79A and that there is no statutory notice under Sec.202 of L.R.C. Accordingly possession was restored to the lessees. In view of the observations in the Judgement of the High Court I am of opinion that no fresh notice in addition to one issued and served under Collector's office No.F.A.D.S.R.-279 of 9/13-10-1954 would appear to be necessary to enable the Collector to pass an order under Section 79A of L.R.Code.

b) An order of summary eviction under Section 79 A of ~~the~~ L.R.C. has to be passed by the Collector. The Collector can pass such order in the case of persons unauthorisedly occupying or wrongfully in possession of any land to the use or occupation of which by reasons of the ~~provisions~~ provisions of the L.R.C. they are not entitled or have ceased to be entitled. Accordingly to Section 68 L.R.C. an occupant is entitled to the use and occupation of land for the period to which his tenure is limited and on the fulfilment of the terms and conditions lawfully annexed to his tenure. The High Court has observed that the Advocate general is right when he contends that when the Govt.terminated the lease the lessees were in wrongful possession of the land and the Collector had such power summarily to evict the petitioners. In view of this position it would appear to be open to the Collector to proceed to pass an order under Sec.79 A L.R.C. The High Court has observed in the judgement as follows :-

(P.T.O.)

" True, it would be for the Collector to decide that the petitioners were in wrongful possession but the very fact of the termination of the lease by Govt.would make the possession of the petitioners wrongful. But in this case it does not appear that the Collector has applied his minder to the question at all ".

In view of this I am of opinion that the opinion of the R.L.A. may be taken as to whether notice of Government's intention to determine the lease should again be given and whether on the basis of termination of the lease by the Govt.as made in this case, order under 79 A of L.R.C.may not be passed by the Collector.

Sd/- x x x

District Govt.Pleader.

No.238 of 1955
21-2-1955.

Returned w.cs. to the Collector of Bijapur with all the files.

sd/- x x x
Dist.Govt.Pleader.

No.F.A.D.S.R.-279.
Bijapur, -2-1955.

Whereas under Government Order G.R.R.D.No.6057/39 dated 3-12-1941 a plot of land measuring about 25 acres ~~of~~ out of S.No.215 of the Village Galagali in Bilgi petha in Bijapur District mentioned in the schedule below was given on lease for a period of 15 years to (Name) ------ for the purpose of combined cattle breeding and mixed farming project on the terms and conditions, mentioned in the agreement executed by him on 22-4-1942, and where as it was noticed that he committed a breach of condition No.15 mentioned in the agreement aforesaid in not endeavouring his ~~x~~ utmost to catch silt in the area given to him along the river and also in hallows of the flooded area by planting 'Lakki' and in thus failing to stop washing by the floods of the river.

And where as he was given notice under this office No. F.A.D.S.R.-279 dated 9/13-10-54 of Government's decision to terminate the lease and resume the land on the ground that he has committed a breach of condition No.15 of the aforesaid agreement and consequently the lease has been determined by Govt. and where as he is unauthorisedly occupying and wrongfully in possession of the said land to the use or occupation of which, he has ceased to be entitled, Now therefore in exercise of the powers vested in me under Section 79A~~m~~ L.R.C. I hereby order that he be summarily evicted.

Schedule :-

Collector, Bijapur.

Letter

To

The Collr. of Bijapur

190

No. FLD 1453/16810-E Bombay 6 April 1955

Ref. correspondence resting with your letter no. nil dated the 24.2.55 reg. Spl. Civil Applm. no. 2422/1954 in respect of the applicant Shri M.V. Patil and others for resumption of S.No. 215 of Galgali, Petha Bilgi, distt. Bijapur.

Since the validity of the termination of the lease in this case has not been doubted by the High Court in its decision in the Spl. civil Applm. no. 2422 of 1954, it would not be necessary to terminate the lease afresh or to again give notice of Govt.'s intention to determine the lease and consequently the question about giving an opportunity to the lessees to show cause against the proposed action of Govt. to terminate the lease would not arise. According to the High Court Judgement the possession of the lands in question has not been lawfully taken in this case as the provisions of section 79A and section 202 of the Bombay L.R. Code were not followed. ~~for the same~~ You are, therefore, requested to proceed to take action under Sections 79A and Section 202 of the said Code as indicated in the High Court

~~judgement, on the basis of the termination of the leave granted by Court.~~

~~The draft order proposed by the Govt. Distt. Pleader accompanying your letter under ref. is in order.~~

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(P. 187)

vide p. 185/N

By order etc.

A.S. to Govt.

24.3.55.

Copies forwarded to:—

The C.C.F.

The L.D. with ref. to its n.o.s. no. 6020/A dt. 16.3.55.

R: 6.4.55

E 6

ISSUED ON

No.FAD.SR-279.
Bijapur,11-4-1955.

From:-

Shri H.T.Sadhwani, I.A.S.,
Collector of Bijapur.

To

The Secretary to Government,
Agriculture and Forests Dept.Bombay.

AGRICULTURE & FORESTS
DEPARTMENT
Date 15 APR
FILE No.
SERIAL No. E 28131

Subject:- Resumption of S.No.215 of Galagali, petha Bilgi.
Spl.Civil Application No;2422/54
Shri M.V.Patil and others Vs State of Bombay.

Reference:- G.L.Confl.No.FLD-1453-J,dated 29-9-54.

Sir,

Possession of the 100 acres of land out of S.No. 215 of Galagali, leased out to the four lessees for the combined cattle breeding and mixed farming project was taken over as per Govt.order under reference on 23-10-54 and two watchmen were appointed in the first instance from the date of resumption of the land for the protection of the standing crops in the land. Subsequently as it was found necessary the services of two more watchmen were utilised by the Prant Officer,Jamkhandi Dn.for the purpose. The services of these watchmen were continued upto 9-2-55 viz.,the date on which the possession of the land was restored to the lessees as per telegraphic instructions received from Govt.under No.FLD-1953/9319-E dated 3-2-55.

The wages of the watchmen incurred in this connection are as stated below :-

1) Wages of two watchmen from 23-10-54 to 9-2-55 @ Re.1-8-0 per watchman per day.	Rs.330-0-0
2) -do- of two more watchmen engaged from 29-12-54 to 9-2-55 @ Re.1-0-0 per watchman per day.	Rs. 86-0-0
Total:-	Rs.416-0-0

The fact of the appointment of the watchmen has been reported to Govt.under even Nos.dated 11-11-54 and 30-12-54 respectively. The fact of the appointment of the watchmen has also been mentioned in the affidavit.

As the High Court has ordered that the apponents must bear the costs of the petition, these charges are to be borne by Government.

Since the land in question is a forest land in charge of Forest Dept.the Chief Conservator of Forests,B.S.Poona was requested under even No.dated 11-3-55 to remit the above charges from the grants placed at the disposal of the Forest Dept. A copy of the reply received from him in this connection is enclosed for perusal.

As the land in question is a forest land in charge of Forest Dept.the charges referred to above are debittable to 'Forest Dept'. It is, therefore, requested that the amount of Rs.416/- may kindly be sanctioned for payment of the wages of four watchmen as detailed above and the Head to which the expenditure is to be debitted may also be pointed out.

(P.T.O.)

193

Early orders are solicited in the matter as the payment is outstanding since long.

Yours faithfully,

O.C.signed
by the Collr.

For Collector, Bijapur.

194 193

Copy of Conservator of Forests, B.S.Poona's letter No. 17/D/SG/17412 dated 31-3-55, to the Collector of Bijapur.

Sub:-Resumption of S.No.215 of Galagali petha Bilgi.

Ref:-Your letter No.FADSR-279 of 16-3-55 and telegram dated 20-3-55.

" Your letter dated 16-3-55 was actually received in this office on 22nd of March. There is nothing on the records of this office to show whether this Dept.was consulted before appointing the watchmen in question. Similarly a copy of the High Court's order referred to in para 2 of your above reference is not received in this office. Since it is now too late to arrange to remit the amount of Rs.416/- on account of wages to watchmen before close of the financial year, it is suggested that necessary payment may please be made by you from the grant at your disposal and if at all the amount is to be borne by this Dept.it can be paid subsequently by book adjustment."

Letter 195/195

To
The C C F.

no. FLD 1453/70305-E Bby, May 55-

Ref. this dept. endt. no. FLD-1453/16810-E d. 6th April 55 (P. 1891c) regarding resumption of S. no. 215 of Galgali Petha Bilgi.

A copy of the letter no FLD-SR-279, d. 11.4.55 (P. 1911c), from the Collector of Bijapur is forwarded herewith for favour of your very early remarks.

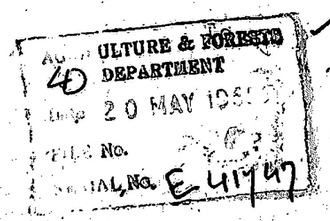
By order
Asstt. Secy. to Govt.

196/197 195

No.RAD.SR-279.
Bijapur, @ 17-5-1955.

From:-

The Collector of Bijapur.



The Secretary to Government,
Agriculture and Forests Dept., Bombay.

Subject:- Resumption of S.No.215 of Galagali
Spl.Civil Application No.2422/54
Shri M.V.Patil and others
-Vs
State of Bombay.

Sir,

Please refer to this office even No.dated 11-4-55 soliciting sanction for payment of Rs.416/- on account of wages of the watchmen appointed for protection of the crop in S.No.215 of Galagali petha Bilgi. It is requested that early orders may kindly be passed in the matter as the watchmen are pressing for payment.

Yours faithfully,

For Collector, Bijapur.

Letter 199 197

To The Collector of Bijapur

No. FLD1453/70305. E Bly, May 55.

Ref. your letter no. FAD. S.R. 279 d. 11.4.55 and 17.5.55 regarding resumption of S. no. 215 of Galgali.

The matter is under consideration

Supdt.
A & FD.
28/5

201 198

Letter.

To

The Collector of Bijapur.

No.FLD.1453/70305-E. Bombay, 28th May, 1955.

Reference your letters No.FAD.S.R.279, dated the 11th April 1955, and 17th May, 1955, regarding resumption of Survey No.215 of Galgali.

The matter is under consideration.

28/5

Superintendent.
Agriculture and Forests Department.

ISSUED
ON 30/5

qc

N[redacted].28/5

G.D.C. pl link up with the relevant Apx when rd.
30/5

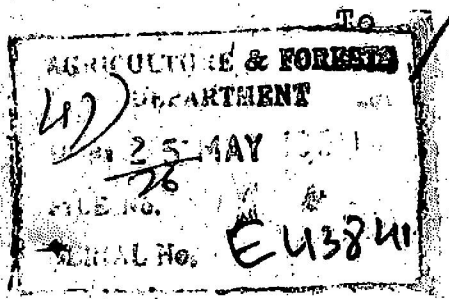
Reggy.
Pl. sign & return
DR
28/5

No.FAD.SR 274
Bijapur, 19-5-1955.

From

Shri H.T.Sadhwani, I.A.S.,
Collector of Bijapur.

To



The Secretary to Government
Agriculture and Forest Department, Bombay.

Sub: Resumption of S.No.215 of Galagali Petha Bilgi.

Ref: Govt.letter A.F.D.No.FLD 1453/16810-E dated 6-4-55.

Sir,

According to the instructions contained in the Government letter under reference, orders under Sec.79A L.R.C. have been passed and further action under Sec.202 L.R.C. is being taken in the matter.

It is requested that orders, as to the way in which the land is to be disposed of after it is resumed from the lessees, may kindly be passed at an early date. As the land is a fresh land, it it presumed that the possession is to be handed over to the Forest Department.

Yours faithfully,

for Collector, Bijapur.

O.C.Signed by
Collr

Letter 205 200

To

The Collr. of Bijapur.

NO FLD 1453/43841 E B'day 6th June 1955

Ref correspondence resting with your letter No FAD SR 274 dtd 19-5-55 req. resumption of S.No. 215 of Galagali, Pedha Bilgi.

2 Govt. is pleased to sanction an amount of Rs 416/- for payment of wages of the four watchmen as detailed below, employed in connection with the F.S.No 215 of Galagali:

i) Wages of two watchmen from 23-10-54 to 9-2-55 at Rs 1-8-0 per watchman per day — Rs 380/-

ii) -do- of two more watchmen engaged from 29-12-54 to 9-2-55 at Rs 1-0-0 per watchman per day — Rs 86/-

Total Rs 416/-

3. The expdr. on this account shd. be incurred by the Forest Deptt. and debited from time to time from the sanctioned grant during sanctioned under the head '70-Forests' during the current year.

4 Govt. is further pleased to direct that the forest land in question, after its resumption from the lessee shd. be disposed of to the Harijans in the light of the orders issued in G.R.RD No LND 3553 J-B dtd. 20-8-54. The conditions regarding preservation of soil on the banks of the river by planting trees suitable trees shd. be included in the agreement.

By order etc.,

Sd/-

DO A.S. to Govt.

~~No FLD 1453/43841 E~~ ~~Bhopal June 1955~~

201

Copies to :- The C.E.F.

The A.G. (Misc Deptt; through J.D.)*

The J.D.

* With a copy of letter No FAD8R279 dt: 11-4-55 from the Collr of Bidar

The C.E.F. is requested to report to Govt. the action taken in respect of para 3 above, in due course.

By order, etc;

A.S. to Govt.

17/6/55

ISSUED on 11/7

107

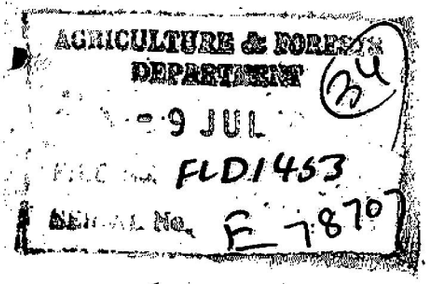
202

No. FAD.SR.279
Collector's Office,
Bijapur, 5- 7-1955.

From

Shri H.T.Sadhwani, IAS.,
Collector of Bijapur.

To



The Secretary to Government,
A and F.D. Bombay.

Subject :- Resumption of Survey No. 215 of Galgali Petha Bilgi.

Reference:- G.A and F.D.Letter No. FLD/1453/16810-E dated 6-4-1955.

SAI 5/7

Sir,

Possession of the 100 acres of land out of Survey No. 215 of Galgali, Petha Bilgi, leased out for the four lessees for the Combined Cattle Breeding and Mixed Farming Project has been taken over on 25-6-1955 after following the procedure laid down in Sections 79A and 202 L.R.C. Shri R.M.Desai of Yadhalli one of the lessees, was present at the time ~~of~~ when the possession was taken. No obstruction has been caused at the time of taking over. No summer operations have also been carried out by any of the lessees in the lands.

Attention is also invited to this Office even Nos. dated 21-5-1955 and 23-6-1955 soliciting orders for the disposal of the land. Early orders in the matter may kindly be passed as the sowing season is fast approaching.

Orders issued vide p 103/C

Yours faithfully,

Collector, Bijapur.

GVM/5-7

81 See p 21/N

G. R., G. D. No. 8660, dated 7-6-02

Gen

Name S. T. Wallis

Wishes to see

On what business To [illegible]

[illegible]

Very Early
Present 7.7.55 209 204
Gms
EBr 7/7/55
SAL V 9/7

Appeal No. /1955.

To

The Secretary to Government,
Ministry of Agriculture and
Forest, Secretariat,
Bombay.

2624-E 9/7

(1)

1. Mallangouda Veerangouda
Nyamangoudar of Galgali
Petha Bilgi Dist.Bijapur.
2. Ramangouda Venkangouda
Patil of Yedahalli Petha
Bilgi Dist. Bijapur.
3. Rachappa Mallappa Desai
of Yadahalli Petha Bilgi.
4. Lemachand Depchand of
Yedahalli Petha Bilgi ... Petitioners.

Appeal against the order passed by the Collector under Section 79A of L.R.Code on date nil May 1955 received by the applicant on 28-5-1955 in respect of S.No. 215/4 of Galgali Petha Bilgi, District Bijapur.

The above named appellants being aggrieved by the order passed by the Collector in May 1955 beg to prefer this appeal against the said order on the following among other grounds:-

1. That the order is contrary to law and procedure.

2. That there was no breach of the

205

agreement of lease executed by the appellants in favour of the Collector on 22-4-1942.

3. That the Collector Shri Sadwani did not personally inspect the site and did not apply his mind independently to satisfy him that there was an actual breach of the agreement.

4. That the allegation in the order that the appellants did not "endeavour their utmost to catch silt in the area given to them along the river and also in the hollows of the flooded area by planting 'lakki' and in thus failing to stop washing by the floods of the river Krishna" is false.

5. That the appellants have planted 'lakki' trees along the bank of the river and the hollows from time to time.

6. That the Government who passed the original order dated 9th October 1954, terminating the lease were not in possession of facts regarding the true state of affairs but were mainly influenced by interested outsiders.

7. That the order of the Collector is ultravires of the provisions of Section 79A of the L.R.Code. The section does not contemplate an eviction of lessees from the Government.

8. That Sec. 79A applies only to cases where the occupant has committed a breach of the provisions of the Land Revenue Code or where there is an unauthorised transfer under Sec. 73 A.

9. That the Government ought to have given a proper notice to the appellants before passing the order of termination of the lease.

10. That the principles of natural justice were disregarded by the Government by not giving an opportunity to the appellants to satisfy the Government that they had not committed any breach of any terms of the lease.

11. That the action of the Government and the Collector was malafide.

12. That there were only two years left for the period of the lease to expire and the Government ought to have taken this fact into consideration before passing an order of termination.

13. That the S.No. in question which was used as a farm for the purpose of breeding cattle was subject to inspection of several Government Officers and none of them ~~were~~ alleged that there was any breach of the agreement.

14. That 'lakki' and other similar plants are planted every year to stop erosion but the force of the river Krishna is so great that the young plants are washed away every year. But the appellants at present with great cost and effort have protected the land from being washed away.

15. That in fact no portion of the land is washed away. The land now in the occupation of the appellants is the same in area and measurement as when it was leased out to them.

16. That the appellants are put to irreparable loss and in-convenience as they have to maintain a large flock of selected cattle which they had to maintain under the terms of the lease.

That therefore it is humbly prayed that the order of the Collector dated May 1955 be set

207

aside and the land in question be restored to the appellants for the unexpired period of the lease.

Date. 7-7-1955.

Reasons for the appellants

Reasons

It is forgot that in case, the department of Agriculture and Forests is not the proper authority to deal with this appeal, it may kindly be transferred to the Secretary Revenue Department to whom the authority vests in respect to which it.

Reasons

7-7-55

Reasons

Please see f/n

FLD 1453/78624 E

No. ~~6~~/

Agriculture and Forests
Department, Secretariat,
Bombay, 3rd ~~July~~ December 1955.

From

The Assistant Secretary to the Government of Bombay,
Agriculture and Forests Department.

To

Shri Ramangouda V. Patil & others
at- Yedahalli, Petha Bilgi, Distt. Bijapur.

Subject:- Appeal against the order passed by the Collr. of Bijapur in connection with land at Galgali.

Sir,

In continuation of Government Letter No. ~~dated the~~ on the above subject, I am directed to state that Govt. see no reason to interfere with the order passed by the Collr. of Bijapur in connection with the land comprising S. No 215 of Galgali, Petha: Bilgi for it is regretted, be granted. the accompls. recd. with your letter under reply are retd. herewith.

Yours faithfully,

Assistant Secretary to Government.

ISSUED ON 4/1

Accountant — 1/55.

2-21 209

D.O.No.F.A.D.S.R.-271.
Bijapur, 19-7-1955.

Dear Shri Jogalekar, 205/C

Please refer to the G.L.A.F.D.No.FLD/1453/43841-E, dated 6-7-1955 regarding disposal of S.No.215 of Galagali, petha Bilgi.

Govt. have issued orders for the disposal of the 100 acres of land out of S.No.215 of Galagali, after its resumption from the lessees, to the Harijans in the light of the orders contained in G.R.R.D.No.LND-3953-V-B, dated 20-8-1954. This G.R. relates to the disposal of Govt. waste lands. It is also not clear whether the land is to be disposed of permanently or should be leased out temporarily.

S.No.215 of Galagali is a forest land in charge of Forest Department. Grants of forest lands for cultivation are governed by the orders contained in G.R.A & F.D.No.FDM-1054 dated 8-7-54 and not under G.R.R.D. dated 20-8-54 under reference. If the land is to be disposed of under the G.R. dated 8-7-54, the Forest Dept. will be the proper authority to deal with the matter. If it is to be disposed of under the G.R. of 20-8-54 the land will have to be disforested first.

It may please, therefore, be clarified under which of the two G.Rs. the land is to be disposed of and whether it is to be disposed of permanently or to be leased out temporarily. As the sowing season is fast approaching, I request for the issue of necessary orders immediately.

Yours sincerely,

(C.B.D'Mello)
P.A. to the Collector, Bijapur.

Approved by Collr.

To

Shri P.R.Jogalekar,
Assistant Secretary to Government,
Agriculture and Dorests Department, Bombay.

H/8FD

210

The main pps. bearing No FLD1483/43 M.E referred to L.D. are reqd. immediately for the disposal of the d.o. overleaf. L.D. is requested to return the pps immediately without the remarks. They will again be referred to their Deptt. when done with.

23/7/55

S. A-S

A-S. L.D.

Immediate ... Letter

To

The Collr. of Bijapur.

10th Sept — Bijapur

No RLD 1453/86874E

Ref: your d.o. No FAD SR 271 dt 19-7-55 req. disposal of S.No 215 of Galagali

Govt is pleased to direct that the land in question shd. be disposed of as per G.Rs. R.D. No LND 3953 VB L and No LND 3955/38100 dt 10-6-55 dt: 20-8-54, permanently, after disforestation.

You submit to Govt the requisite notfn. disforesting the area, for publication in the B.G.G.

By order etc

A.S. to Govt

DO

Copies with copies of letter under ref. forwarded to :—

~~the~~ C.I.F.

~~the~~ A.C. (through Z.D.)

Stan/ISS

~~the~~ ~~Z~~ Z.D.

~~the~~ ~~D~~ D.

In connection with C.L. No RLD/1453/43841 C dt. 6-7-55. 5205/C

With C.L. No. RLD/1453/43841 C dt. 6-7-55 5205/C

R ~~C~~ 10/ix

E mel 10/ix

10/9

Gr No 105139 213 ~~Ford~~ R.

— Submitted for information.

Tgk of Br. Date 10.9.55. 12/9/55

A.S (Shri S) in E Br. If so, this shd be dealt with in that br.

13/9/55

ACCOMPANIMENT TO HIGH COURT
Writ No. 548 dated 23-2-55

To
The Secretary to the Govt. of Bombay,
Agriculture and Forest Department,
Bombay.

AGRICULTURE & FOREST DEPT.
Date of Receipt
File No.
Serial No. R 19139

SPECIAL CIVIL APPLICATION No. 2422 OF 1954.
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.)

Mallangouda Veerangouda Patil and others ... ... Petitioners;

versus

The Collector of Bijapur and another ... ... Opponents.

Application under Article 226 of the Constitution of India praying that Order No. F.A.D.S.R. 279, dated 9th October 1954 passed by the Collector of Bijapur be quashed by an appropriate writ or order; that opponents be directed by an appropriate writ or order to restore possession of lands bearing Survey No. 215 situate at Galgalli; etc.

Mr. V. M. Tarkunde, Advocate for the Petitioners.

The Advocate General with Mr. V. S. Desai, Assistant Government Pleader for the Opponents.

(CORAM :—Chagla, C. J., and Dixit, J.).

18th January 1955.

Oral Judgment (*Per Chagla, C.J.*).—The Government had a project known as the Combined Cattle Breeding and Mixed Farming Project, and in order to carry out this project on the 22nd April 1942 Government executed four leases in favour of the four petitioners giving them possession of 100 acres for a period of fifteen years in order to carry out this project. The lease laid down various conditions which had to be complied with by the petitioners and the petitioners had to furnish reports every year to Government to satisfy them that they were carrying out this project, and such reports were furnished up to the end of 1952. On the 27th May 1953 the Collector of Bijapur visited the site and asked the Local Circle Inspector to take statements from the petitioners as to whether they had been complying with the conditions of the lease. Becoming apprehensive by reason of the visit of the Collector, the petitioners made a representation to Government on the 8th July 1953 pointing out that they had loyally carried out all the conditions of the lease. On the 13th October 1954 Government passed an order terminating with immediate effect the leases executed in favour of the petitioners and in the order it was stated that the petitioners had committed a breach of condition 15 of the lease. This order was served upon the petitioners on the 19th October 1954. As soon as the order was served, the petitioners made up their mind to present a petition to this Court. On the 18th October 1954 the Mahalkari of Bijapur served a notice upon the petitioners calling upon them to deliver possession of the land to the Circle Officer of the Bilgi Circle on the 28th October 1954. The petitioners' contention is that inasmuch as the Revenue Authorities knew of the intention of the petitioners to approach the High Court, instead of waiting till the 28th October 1954, behind the back of the petitioners possession was actually taken on the 23rd October 1954. It may be stated that Government has not denied the fact that possession in fact was taken on the 23rd October 1954 and no explanation has been forthcoming as to why possession was taken on the 23rd October instead of the 28th October as mentioned in the notice of the Mahalkari. The contention of the petitioners is that the taking of possession by the Government of the land leased out to the petitioners is not by authority of law.

Turning to the lease, condition 15 obliges the lessee to plant Lakki plants on the blank of Krishna river in order to prevent erosion, and the contention of Government is that it is this condition which has been broken by the petitioners.

F.A. 31-66.

Now, clause 10 of the lease provides that the lessee shall execute a bond for Rs. 500 and shall procure a surety for the like amount for the proper observance of the terms and conditions of the lease, and in the event of his not observing all the terms and conditions of the lease, the full amount of the bond or such part thereof as the Collector may determine shall be forfeited to the Government and the said plot shall be resumed by the Government without any compensation. It is under this clause that the Government has exercised its right to terminate the lease.

Now, what is contended by Mr. Tarkunde is that there is no provision in the lease providing for adjudication by Government that a certain term of the lease has not been carried out. And in the absence of any such provision the adjudication can only be by a civil Court and not unilaterally by Government. If we were to go merely by the terms of clauses 10 and 15, the position undoubtedly would be as Mr. Tarkunde contends, because although the power is given to Government to resume the land and to terminate the lease, the lease does not provide that it is for Government to determine and decide that a particular term of the lease has been broken. There are leases executed between Government and the citizen which do provide that it would be for the Government to decide and determine whether a certain term has been complied with or not. But this lease does not so provide. Mr. Tarkunde also seems to be right that the rights of Government are contractual rights under the lease and the Government is in no better position than a landlord who terminates the lease because his tenant has committed a breach of one of the covenants; and Mr. Tarkunde contends that as in the case of any other landlord Government cannot take the law into its own hands and take possession of the property, the subject matter of the lease, but it must go to a civil Court, establish the breach, and then get an order for possession.

Now, in the preamble to the lease it is stated that the lease is subject to the provisions of the Bombay Land Revenue Code and the Rules made thereunder, and it is rather important to note that the lease allows the lessee to occupy the land for the purpose of the Combined Cattle Breeding and Mixed Farming Project. Therefore this is not a case of an ordinary lease under the Transfer of Property Act where there is a demise of land and a particular interest in property is vested in the lessee. The only right that the petitioners have under the lease is to occupy the land under the provisions of the Bombay Land Revenue Code. This position is made clear also by the Crown Grants Act of 1895, which Act provides by section 2 that the Transfer of Property Act shall not apply to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the Crown to, or in favour of, any person whomsoever; and section 3 of that Act provides :

> "All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding."

Therefore we must construe this lease not in accordance with the provisions of the Transfer of Property Act, but according to the tenor of the lease itself, and the tenor of the lease makes it clear that the lease has been made subject to the provisions of the Bombay Land Revenue Code and the rules made thereunder.

Therefore we must turn to the Bombay Land Revenue Code in order to decide what the rights of Government are with regard to this land which has been leased to the petitioners. Section 68 provides for the occupant's rights, and we agree with the Advocate General that the position of the lessee in this case is that of an occupant under section 68. Section 68 provides :

> "An occupant is entitled to the use and occupation of his land for the period, if any, to which his tenure is limited, or if the period is unlimited, or a survey settlement has been extended to the land, in perpetuity conditionally on the payment of the amounts due on account of the land revenue for the same, according to the provisions of this Act, or of any rules made under this Act, or of any other law, for the time being in force, and on the fulfilment of any other terms or conditions lawfully annexed to his tenure."

Therefore, the right of the petitioners to continue as occupants depends upon the fulfilment by them of the terms annexed to their tenure, which terms are to be found in the lease executed by Government. Then we turn to section 79A and that section gives statutory power to the Collector summarily to evict any person

unauthorisedly occupying or wrongfully in possession of any land to the use or occupation of which by reason of any of the provisions of this Act he is not entitled or has ceased to be entitled. Again, the Advocate General is right when he contends that when the Government terminated the lease, the lessees were wrongfully in possession of the land and that the Collector had the statutory power summarily to evict the petitioners.

Now, the narrow question that we have to decide on this petition is whether the petitioners have been wrongfully in possession of the land, their lease having been terminated by Government, and whether any order has been passed by the Collector under section 79A summarily evicting them. It is rather significant to note that the Collector in this case has made no affidavit. The affidavit is only made by the Assistant Secretary to Government and in that affidavit there is no reliance on section 79A at all. As far as the affidavits go, it is not the case of Government that pursuant to the powers conferred upon the Collector under section 79A the petitioner has been summarily evicted by him. When we turn to the order of the 9th October 1954 which is relied upon by the Advocate General as an order under section 79A, it is clear that that order is not an order by the Collector summarily evicting the petitioners. That is an order by Government terminating the lease of the petitioners. It is only after that order was passed that the possession of the petitioners became wrongful and after the possession became wrongful the Collector should have exercised his statutory power under section 79A summarily to evict the petitioners. That power was never exercised by the Collector. After the Collector exercises his power under section 79A it is incumbent upon him under section 202 to give a statutory notice. The provisions of section 202 are mandatory and that section provides :

> "Whenever it is provided by this, or by any other Act for the time being in force, that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, viz. :—
>
> by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed by removing or deputing a subordinate to remove any person who may refuse to vacate the same....."

Therefore, before possession can be taken under the Land Revenue Code, the conditions to be complied with are, first, an order by the Collector under section 79A summarily evicting the person wrongfully in possession of property, the second condition is the statutory notice required under section 202, and the third condition is disobedience by the person upon whom the notice is served of that notice, and it is only when the notice is not obeyed that the power is given to the authorities physically to remove the person in possession of the land.

Now, apart from the fact that there is no proper order by the Collector under section 79A, there is not even a statutory notice under section 202. There is only an intimation by the Mahalkari given on the 18th October 1954 that possession will be taken on the 28th October 1954. But the notice under section 202 can only be given by the Collector or at best by the Mamlatdar if the power has been delegated to him, and the Advocate General does not contend that the Mahalkari has been authorised under section 202 to give the statutory notice. Therefore it is clear that possession was taken by Government in the absence of any order by the Collector of summary eviction and in the absence of a statutory notice required under section 202. Mr. Tarkunde also points out and rightly that the order under section 79A must be by the Collector and not by Government, because a right of appeal is given to the person against whom the order of summary eviction has been made under section 203. When a Collector makes an order under section 79A the person affected by that order can go to Government under section 203. But if here the Government itself makes the order, the right of appeal contemplated under section 203 is denied to the petitioners.

The Advocate General then contends that if there is a breach and if the Government can decide whether there is a breach or not and if the lease has been lawfully terminated, no prejudice has been caused to the petitioner if possession has been taken from him, even assuming there has been some irregularity in the taking of possession. We cannot possibly countenance that argument. When a statute confers upon the authorities drastic power of summary eviction, the Court must insist that there is a proper compliance with all the conditions laid down by the statute. Government have been given the power to take away

property from a citizen without resort to the ordinary Courts of the land. Undoubtedly there is a policy behind such a provision in the law. The Government cannot be expected to resort to the dilatory methods of an ordinary suit before it can get possession. But if the law confers these wide powers, the law equally requires that there must be a proper compliance with all the conditions laid down in the statute before the power can be exercised. In this case we find that there is neither a proper order of summary eviction by the Collector under section 79A, nor is there a statutory notice required under section 202, and therefore we must come to the conclusion that the possession taken by Government was not in accordance with law and it was not by authority of law, and therefore the necessary writ must be issued against Government.

Mr. Tarkunde also argued that under section 79A it was for the Collector to decide that the petitioners were wrongfully in possession of the land and in order to decide that it was for him to decide that the petitioners had committed a breach of one of the conditions of the lease. As against this it may be urged that the power to terminate the lease was with Government and the Government having terminated the lease the petitioners were in wrongful possession. True, it would be for the Collector to decide that the petitioners were in wrongful possession, but the very fact of the termination of the lease by Government would make the possession of the petitioners wrongful. But in this case it does not appear that the Collector has applied his mind to the question at all or has made any order contemplated by section 79A. The order of the 9th October 1954 is by Government and the Government seems to have directed the Collector to take possession from the petitioners.

We therefore direct that the opponents must restore to the petitioners the possession of the property, the subject matter of the leases. Opponents must pay the costs of the petition.

By order of the Court,

(Signed) V. R. GADKARI,
Deputy Registrar.

Exd. by :—V. I. M.

TRUE COPY

Assistant Registrar 26/6

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

218
231

No.FAD.SR-279.
Bijapur,23-6-55.

From:-

The Collector of Bijapur.

To (7)

The Secretary to Government,
Agriculture and Forests Dept.Bombay.

FILE No. 0
SERIAL No. E 71496

Subject:-Resumption of S.No.215 of Galagali.

Sir,

Please refer to this office even No.dated 21-5-55. Notices under Sec.202 L.R.C.,have also been served on the persons concerned and the Mahalkari Bilgi has been deputed to take over possession of the lands. It is, therefore, requested that orders, as to the way in which the lands are to be disposed of after they are taken over, may kindly be passed at an early da-te.

Yours faithfully,

22/6

For Collector,Bijapur.

AFD

Orders are being issued separately.
May be filed with main pps.
28/6/55

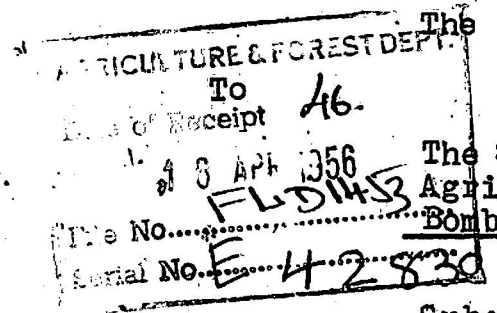
28/6 Sd

219

No.F.A.D.S.R- 803
Bijapur, 11-4-1956.

From

The Collector of Bijapur.



To The Secretary to Government
Agriculture and Forests Department
Bombay.

Sub:-Disposal of S.No.215 of Galgali

Ref:- Your No.FLD/1453/86884-E of 7-4-56.

Sir,

I am awaiting report from the Prant Officer-Jamakhandi .He has been again expedited today by D.O.letter. My final report will be submitted on receipt of the Prant Officers report.

Yours faithfully,

A&FD-Ex

for Collector, Bijapur.

Receipt of further communication from the Coll. Bijapur may be awaited till 20-5-56

24/4/56

25/4

Letter. Subject:-Encroachment of Sandalwood plots in S.No.215 of Galgali

Registered. No.17/D/SG/A/1088 of 1956-57.
Poona.No.1. May, 1956.

To

The Secretary to Government,
Agriculture and Forests Department,
Bombay.

Ref:-Govt.letter FLD 1453-J dated 29-9-1954.

Government in paragraph 2 of their letter quoted above had directed the Collector of Bijapur to take steps to evict the lessees of the S.No.215 of Galgali who had encroached upon the Forest land and to recover rent by way of compensation from the lessees in respect of the land encroached upon in consultation with the Forest Department if necessary. Accordingly the Collector of Bijapur under his No.FADSR-279 dated 18-10-1954 (copy enclosed) directed the Prant Officer Jamkhandi to take immediate steps to evict the encroachers in consultation with the sub- D.F.O., Bagalkot and requested this office to state whether any rent by way of compensation could be recovered from the lessees in respect of the land encroached as suggested in para 2 of Government letter referred to above and if so how much and under which law. As the lessees had tampered with the reserved boundary stones over the Government Forests, the offence was not compoundable under I.F.Act but the offenders were to be prosecuted in the Court of Law under Section 63 of the I.F.Act, the Collector was informed accordingly and the Conservator of Forests, S.C. was asked to consult the Government Pleader and submit necessary proposals in the matter. In this connection, copies of this office No.17/D/SG/16691 of 19-3-1955 and the Conservator of Forests, S.C.'s No.22/30/37476 of 2/7-2-55 are enclosed herewith. The Government Pleader Bijapur who was consulted in the matter by the sub- D.F.O. Bagalkot has opined that it is difficult to fix up the offenders and the evidence to conclusively establish the offences against any particular offender and that the offences of trespass and theft which are disclosed are punishable under the Indian Penal Code Sections 447 and 379 respectively and are cognizable offences in addition to their being punishable under the I.F.Act. He has therefore suggested that the cases may be entrusted to the police so that if they are able to collect evidence they will send up the case, vide letter No.328 of 9-3-56 from the Government Pleader, Bijapur received with the sub- D.F.O. Bagalkot's No.C/11/1748 of 13-3-1956 and the Conservator of Forests, S.C's No.22/30/20153 of 28-3-1956. copies enclosed.

2. Under the circumstances explained above, the Govt. orders contained in para 2 of the Govt.letter referred to above cannot be complied with as the encroachment of the Forest land in the present case is not compoundable under Section 68 of the I.F.Act as it is an offence under Section 63 of the I.F.Act. Government may kindly be moved to consider this and issue orders whether action as suggested by the Government Pleader should be taken.

3. The case papers in the matter are sent herewith for reference and return.

(J.A.Singh)
Chief Conservator of Forests
State of Bombay

AGRICULTURE & FOREST DEPT.
Date of Receipt 22
- 9 MAY 1956
File No. FLD 1453
Serial No. F 5716/9

No.FAD.SR-279.
Bijapur, 18-10-54.

To

The Prant Officer, Jamkhandi Dn.,
Jamkhandi.

Subject:-Encroachment in the Sandalwood plot in S.No.215 of Galgali- Removal of

A copy of the Sub- D.F.O.,Bagalkot's letter No.C/D/99 dated 20/28-3-1954 addressed to the Conservator of Forests on the above subject is enclosed. It will be seen therefrom that the lessees of the S.No.215 of Galgali leased out for combined cattle breeding and mixed farming project have encroached upon the area of 4-5 acres in the Sandle-wood plot.

The sub- D.F.O.Bagalkot has already been asked to take steps under even No. dated 26-9-54 against the encroachers under Section 26(3) of the I.F.Act 1927, copy of which is also endorsed to you. However, since Government have now issued instructions to take steps to evict the lessee encroachers from the area encroached upon in the sandalwood plot, you are requested to take immediate steps in consultation with the sub- D.F.O.Bagalkot to evict the encroachers. The sub-D.F.O. Bagalkot is being requested to supply you a sketch showing the area encroached upon by the lessees encroached. Any other information required in the matter should be obtained from him direct. File No.VI received from Government accompanies. The same should be returned within one month.

sd/- J.V.Parulekar,
For Collector,Bijapur.

Copy to.

(1) The sub- D.F.O.Bagalkot, He should supply to the P.O. JK. Dn., a sketch of the area encroached upon by the lessees of the combined cattle breeding and mixed farming project and other necessary particulars required in the matter.

(2) The Chief Conservator of Forests, B.S.,Poona with reference to para 2 of the Government letter confl. No.FLD 1453-J dated 29-9-54. He is requested to state whether any rent by way of compensation should be recovered from the lessees in respect of of the land in question as suggested in para 2 of the Govt. letter referred to above and if so how much and under which law.

sd/-
Dor Collector, Bijapur.

Iyer/4.5.

Below No.22/30/3476 of 2/7-2-55 from the Conservator of Forests, Southern Circle, Belgaum.

23 / 22

Subject:-Encroachment in the Sandalwood plot in S.No.215 of Galgali.

No.17/D/SG/ 6691 of 1954-55.
Poona.No.1. 19th March, 1955.

Copy f.w.cs. to the Collector of Bijapur, with reference to his No.FAD-SR-279 of 18-10-1954.

2. Since the lessees have tampered with the reserved boundary stones and encroached over the Government Forests the offence is not compoundable but it appears the offenders will have to be prosecuted in the Court of Law. Under Section 63 of the Indian Forest Act. This will therefore have to be done after consulting the Government Pleader.

sd/-
for (J.A.Singh)
Chief Conservator of Forests,
State of Bombay.

Copy f.w.cs. to the Conservator of Forests, Southern Circle, Belgaum with reference to his letter under reference. The Conservator is requested to consult the Government Pleader and submit his further report in the matter early.

Iyer/4.5.

Below No.C/1067 dated 24/25-1-1955 from the sub- D.F.O. Bagalkot.

2M/
223

Subject:-Encroachment in the Sandalwood plot in S.No.215 of Galgali.

No.22/30/3476 of 1954-55. Via-Belgaum2/7-2-1955.

F.w.cs. to the Chief Conservator of Forests,B.S., Poona with reference to his No.17/D/SC/12395 of 3-1-55.

2. The lessees of the S.No.215 of Galgali have tampered with the reserved boundary stones and encroached over the Government forests. This has already been made clear in the sub- D.F.O's report No.C/D/99 of 20-3-54 submitted under this office No.Confl. 9 of 2/6-4-1954. In the circumstances the encroachment on forest land can not be compounded under the I.F.A.by recovering rent of the area by way of compensation but the encroachers have necessarily to be prosecuted in the court of Law.

3. The Collector of Bijapur has already informed under his No.FOR.dated 26-9-1954 to the sub- D,F.O. Bagalkot that no useful purpose would be served by search-ing out the lease which is not forthcoming but to take immediate action under Section 26(d) of I.F.Act 1927 against the encroachers whoever they may be.

Orders to prosecute the offenders in court of law, are solicited.

sdØ-
Conservator of Forests, S.C.

Iyer/4.5.

Copy of Sub- D.F.O.Bagalkot's letter No.C/1067 of 24/25-1-1955 addressed to the Conservator of Forests, S.C.Belgaum regarding: Encroach--ment in the Sandalwood plot in S.No.215 of Galgali.

" Reference your No.22/30/14009 dated 6-1-55.

As reported in this office No.C/D/99 dated 20-3-54(pl.vide paras 4 & 3i) , the lessee of the S.215 has tampered with the reserved boundary stones and encroached over the Govt.forests. Such case, in my opinion cannot be compounded but the offender has to be prosecuted in a court of law under Section 26(5) of the Indian Forest Act,1927. It is known that the society had encroacheed ovqr an area of 4.5 acres of the adjacent sandal plantation area. Necessary assessment at the prevailing rate in the locality should be charged from the society in addition to the value of tree growth in the encroached area and compensation if the offenders are not prosecuted. But all this depends on the terms of the agreement which is not available in this office.

Under this office No.G/762 dated 4-6-1953, Collector, Bijapur was requested to inform this office about the action which was to be taken against the society for the encroachment done by them. But as no instruct--ions have been received in the matter and as the copy of the lease (agreement) is also not received from the Collector, Bijapur no definite remarks can be offered by this office.

Collector Bijapur's letter No.FOR dated 26-9-54 copy of which was sent to your office under this office No.C/756 dated 2/3-11-54 seems to be misplaced and is not available in this office. I would request you please to send me the copy of the above reference (collector, Bijapur's letter No.FOR dated 26-9-54) for my guidance and further action. Necessary orders are solicited.

"*"*"*"*"*"*"*"*"*"*"

IYER/4.5.

Below No.C/1748 of 13-3-1956 from the Sub- D.F.O., Bagalkot.

225

Subject:- Encroachment in forest S.No.215 of Galgali, Petha Bilgi.

No.22/30/ 20153 of 1955-56.
Belgaum, 28th March, 1956.

Submitted to the Chief Conservator of Forests, B.S., Poona with reference to his No.17/D/SG/16691 of 19-3-56.

2. In view of the District Government Pleader's opinion, the case may be handed over to the Police Department to deal with under the I.P.C., as the evidences available in the case are not considered sufficient to deal the same by this Department. Hence necessary orders may please be issued very early

3. The four files are submitted herewith.

sd/-
(R.R.Chaudhari)
Conservator of Forests, S. C.

Iyer/4.5.

Subject:-Encroachment in forest S.No.215 of Galgali,petha Bilgi.

No.C/ 1748 of 1955-56.
Bagalkot, 13th March,1956.

To

The Conservator of Forests,
Southern Circle,Belgaum.

Ref:-Your No.22/30/7088 dated 6/10-8-1956.

I am submitting herewith a copy of the opinion of the District Government Pleader Bijapur in this case. He states that it is difficult to fix up the offenders and the evidence to conclusively establish the offences against any particular offender. The offences of trespass and theft which are disclosed are also punishable under the Indian Penal Code sections 447 and 379 respectively and are cognizable offences in addition to their being punishable under Indian forest Act. Hence he suggests that the case may be entrusted to the Police so that if they are able to collect evidence to show primafacia that the particular person or persons has or have committed any offence or offences under the Indian Penal Code and under the Indian Forest Act, they will be in a position to send up the case.

In the light of the District Government Pleader's opinion I solicit your further orders in the matter. The case in question are enclosed herewith.

sd/-
(M.J.Mescarenhas)
Sub-Divisional Forest Officer,
Bagalkot.

Iyer/4.5.

Copy of District Govt.Pleader,Bijapur's letter No.3287 dated 9-3-56 addressed to the sub- D.F.O.,Bagalkot.

" Ref:-Your reference No.G/6723 of 5-3-56.

Your clerk Shri P.K.Vernekar saw me to-day with the papers and showed them to me.

The report of sub- Divisional Forest Officer, Bagalkot to the the Conservator of Forests, S.C.Belgaum dated 5/6th May,1955 mentions the offences under your heads. He observes "that the whole matter is confusing and that the data available is flimsy and incomplete." From the materials to be found in the papers it is difficult to fix up the offenders and the evidence to conclusively establish the offences against any particular offenders. One of the offences is tresspass and there is also an offence of theft. The offences disclosed thus are not only the offences punishable under the Indian Forest Act, but also offences punishable under Sec. 447 and 379 of the Indian Penal Code are cognizable. The matter, therefore, may be entrusted to the Police so that if they are able to collect evidence to show premafacia that the offence or offences under the Indian Penal Code and under the Indian Forest Act the-y will be in a position to send up a case.

All the papers shown to me have been taken by your clerk Shri P.K.Vernekar.

M. G. S. App. F VI—G. 2]

251

SUBJECT Encroachment of Sandalwood plots in S.No. 215 of Gulgali

No. AH-D 240 DST 5 dt. 23.11.56
Enc copies of 2 lrs & 3 files
Section
Serial No.
File No.

Diary No. of letter replied to.....

Mysore Government Secretariat

( )
the 195

Proceedings of the Government of Mysore

Date of issue.....195

Signed by.....

To
Read
The C.C.F.
B'lore

Sir,

Ref:- letter No. 17/D/56/A/1088 dated 7-5-1956, from the C.C.F. B.S. Poona, on the above subject (copy enclosed)

2) Under the circumstances reported by the C.C.F. B.S. Poona I am directed to request you to kindly accept the suggestion of the Govt. Pleader in respect of trespass and theft and to direct that action as suggested by the Govt. pleader should be taken in the matter. I am to request you to take action accordingly and report compliance to Govt.

The connected three files are returned herewith. The receipt thereof may be acknowledged.

By Order,
Dy. Secy. to Govt.
14/11/56

(In forwarding herewith copies of letter from the C.C.F. No. 17/D/56/A/1088 dated 7th May 1956 and its enclosures (Govt Pleader's opinion in respect of trespass and theft and is likewise to direct that)

May this be—
(I) printed?
(II) treated as a Standing Order?
(III) published in the Gazette, English Part?
(IV) translated?
(V) placed at the disposal of the Press?
(VI) published in the Gazette, Kannada Part?

Read acknowledgement in file No. AH-D 240 DST 56-57 dated 12-2-58 from CC.F. No. Ba-III-18080/56 for which

Acknowledgement: Some files

C. F. No. 46]

GOVERNMENT OF MYSORE

No: B3-111-1888/56
Encls. Two.

OFFICE OF Chief Conservator of Forests in Mysore
Bangalore

Date 27 Nover 1958

To

The Secretary to Government,
Agriculture and Forest Departments,
Bangalore.

Sir,

Sub: Encroachment of sandalwood plots in S.No. 215 of Galgali.

Your letter No. AFD 240 DST 57 dated 23-11-57 and reinder dated 19-3-58.

I enclose a copy of letter No. 22/30/2432 dated 14-10-58 with that of its enclosure received from the Conservator of Forests, Belgaum circle for kind information. Further action taken in the matter will be reported to Government on receipt of Conservator's report.

Yours faithfully,

(K.KADAMBI)
Chief Conservator of Forests.
26/XI/58

230 253

Below No.C/634 dated 19-9-1958 from the Assistant Conservator of Forests, Bagalkot.

.....

Subject:-Encroachment of Sandalwood plots in S.No. 215 of Galgali.

No.22/30/2432 of 1958-59.
Belgaum, 14 October 1958.

Submitted to the Chief Conservator of Forests in Mysore, Bangalore with reference to his No.B3-111-1888/56 dated 10-12-1957 for favour of information.

(N.S.Kaikini)
Conservator of Forests,
Belgaum Circle.

PNV:9.10.

Letter.

To

The Conservator of Forests,
Belgaum Circle, Belgaum.

No.C/ of 1958-59. Bagalkot, -9-1958.

Subject:- Encroachment of Sandalwood plots in S.No.215 of Galgali.

Reference:- Your No.22/30/7053 dated 4-9-1958.

Following are the reasons for not forwarding the papers to the Police Department till 23-8-1958 :-

1) Finding out the P.T.sheet - kindly vide your No.22/30/17323 of 7-3-1958.

2) Obtaining certain clarification from the Range Forest Officer, Bagalkot - kindly vide this office No.C/149 of 6-5-1958.

3) Further, I have requested the Assistant Commissioner, Jk.Dn., Jamkhandi and the Deputy Tahsildar, Bilgi to send the case regarding release of forest land in Galgali F.S.No.215 to Shri.R.M.Desai of Yadhalli and 3 others for establishment of combined cattle breeding and mixed farming project, which I did not have receive.

(M.J.Mascarenhas)
Assistant Conservator of Forests,
Bagalkot.

259 37

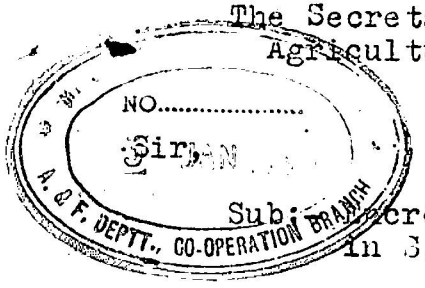
Office of the
Chief Conservator of Forests
in Mysore, Bangalore,

No. B3. 111-1838/56

Dated 2 -1-1959.

To

The Secretary to Government,
Agriculture & Forest Department,
Bangalore.



Sir,

Sub:- Encroachment of sandalwood plots in S.No. 215 of Galgali.

Ref:- Your reminder No. AFD-240-DST-57 dated 15-12-58.

The report from the Conservator of Forests, Belgaum Circle, Belgaum is still awaited. He is being reminded again to-day. On receipt of his report I shall furnish my reply to Government.

Yours faithfully,

(K. KADAMBI),
Chief Conservator of Forests.

DVP/29/12

83 261

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS
IN MYSORE, BANGALORE.

No. B3. 111-1888/56 Dated 24 Feby.. 1959.

E1 Two

To

The Secretary to Government,
Agriculture & Forest Department,
Bangalore.

Sir,

Sub:- Encroachment of Sandalwood Plots in S.No. 215 and Galgali.

Ref:- Your Reminder No. AFD-240-DST-57 dated 15-12-1958.

In continuation of this office letter of even number dated 2-1-1959 on the above subject, I enclose a copy of letter No. 22/30/3787 dated 3-2-1959 from the Conservator of Forests, Belgaum Circle, Belgaum along with that of its enclosure for kind perusal. Further report will be sent to Government on hearing from the Conservator of Forests, Belgaum Circle, Belgaum.

MYSORE GOVERNMENT SECRETARIAT
NO. 2203
- 5 MAR 1959
FOREST BRANCH

Yours faithfully,

(K. KADAMBI),
Chief Conservator of Forests.

DVP/17/2

263

Below No. C/1086 dated 24.1.1959 from the Sub-Divisional Forest Officer, Bagalkot.

.....

Subject:- Encroachment of Sandalwood plots in S.No.215 of Galgali.

No.22/30/ of 1958-59.
Belgaum, January 1959.

Submitted to the Chief Conservator of Forests in Mysore, Bangalore with reference to his No. B3-111-1888/56 of 2.1.1959.

2. Further report will be submitted in due course.

(N.S.Kaikini)
Conservator of Forests,
Belgaum Circle.

SRJ.31.1.

265

Subject:- Encroachment of Sandalwood plots in S.No. 215 of Galgali.

No.C/1086 of 58/59.
Bagalkot, 24-1-1959.

To

The Conservator of Forests,
Belgaum Circle, Belgaum.

References:- Your No.22/30/161442 of 12-1-59.

The District Superintendent of Police, Bijapur has already been requested under this office No.C/2679 of 23-8-58 to investigate into the matter and to take further action as required by law. I have not however received any communication from the District Superintendent of Police regarding the action taken in the matter and the progress so far made in the investigation by the Police Department. I am expediting the District Superintendent of Police, Bijapur to send his reply urgently. On hearing from him further intimation will be submitted.

(M. A. Naik)
Sub-Divisional Forest Officer,
Bagalkot.

PKB/23.1.

Copy forwarded with compliments to the District Superintendent of Police, Bijapur with reference to this office No.D/56 of 12-12-58 for favour of sending his reply at a very early date.